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Greece: Law & Practice

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Greece: Trends & Developments

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GREECE

Law and Practice

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1. LEGAL SYSTEM

1.1 Legal System

Greek law is integrated in the civil law procedural systems. Judicial power lies with the courts of law, which uniformly apply Greek laws. Apart from stricto sensu decisions, courts also review the constitutionality of laws and the constitutionality and legality of all other statutory instruments.

Greek law defines the scope of powers as well as the jurisdiction of the different courts. There are administrative and civil courts of law, with the latter hearing both civil and criminal cases. The supreme administrative court is the Council of State (*Symvoulio tis Epikrateias*), which is based on the model of the French *Conseil d'État*. It advises on the constitutionality of secondary legislation and is the court of first and last instance for applications to review administrative acts for breach of law or abuse of discretionary power. It is also the court that rules on final appeals against judgments of the lower (first and second instance) administrative courts.

When the law provides for a full judicial review of an administrative dispute on the grounds of both law and merit, said dispute is brought before the administrative court of first instance (and, in exceptional cases, the administrative court of second instance), which also hear appeals against judgments of the first-instance administrative courts.

The civil courts hear all "private disputes" (disputes between individuals or entities), as well as cases of non-contentious proceedings. Final appeals on points of law, both in civil and criminal cases, are decided by the supreme civil court (*Areios Pagos*).

2. RESTRICTIONS TO FOREIGN INVESTMENTS

2.1 Approval of Foreign Investments

Greece is open to foreign investments as a matter of principle and encouraging foreign investment forms part of the Greek government's policy. The fairly recent liberalisation of markets previously closed to foreign and domestic private investors, such as the telecommunications, electricity and gas markets, has also been a significant step towards the creation of more opportunities for foreign investors.

Generally, foreign investments do not require approval from local authorities, except for certain limited instances that may be viewed as restrictive and should be assessed by foreign (and particularly non-EU) investors. Greek law imposes certain restrictions on foreign investments involving real estate occupation or ownership in border regions and on certain islands, with regard to national security considerations.

More specifically, non-EU/European Free Trade Association individuals or legal entities may not proceed with any transaction without prior approval from the competent decentralised administration office, in which a contractual right or a right in rem is granted in their favour, or unless such individuals or legal entities acquire shares of companies (irrespective of the companies' legal forms) that own real estate property located in certain border regions of Greece prescribed by Article 24 of Law 1892/1990. Another example is Legislative Decree 210/1973, which allows special approval of contracts for the transfer to foreign (natural or legal) persons or for the use/exploitation of mining rights by such persons.

Foreign investors should also consider obligations relating to share acquisitions that exceed specific thresholds in certain more sensitive

industries (eg, the banking, media and investment-management sectors). It is also worth noting that investments from non-EU/EEA investors in specific sectors, such as the banking sector, do not fall within the ambit of the favourable regime introduced by EU legislation to establish a common framework regulating investment schemes by EU investors.

2.2 Procedure and Sanctions in the Event of Non-compliance

The approval procedure for foreign investments concerning real estate occupation or ownership in border regions of Greece is prescribed by the provisions of Law 1892/1990 and involves filing a petition to "lift" the relevant restrictions.

The interested parties must file such a petition to a committee established by the competent decentralised administration office and indicate the intended purpose of the property's use. It should be noted that this procedure has been substantially simplified by Law 3978/2011 (amending certain provisions of Law 1892/1990) and approval is usually granted within three to four months.

As per Article 30 of Law 1892/1990, any transactions concluded in breach of the provisions of such law are deemed null and void. As regards sanctions, fines and imprisonment of up to one year are imposable on the public notaries drafting the relevant notarial deeds, as well as the contracting parties. Public notaries are also liable by virtue of the Public Notaries Code.

As for mining rights, the absence of the approval prescribed by Legislative Decree 210/1973 shall also render the respective contracts null and void.

2.3 Commitments Required From Foreign Investors

Please refer to **2.1 Approval of Foreign Investments** and **2.2 Procedure and Sanctions in the Event of Non-compliance**.

2.4 Right to Appeal

If, in the context of the procedures described in **2.1 Approval of Foreign Investments** and **2.2 Procedure and Sanctions in the Event of Non-compliance**, the competent authorities refuse to grant the requested approvals then the interested parties may challenge the respective decisions before the competent Greek administrative courts. The backlog confronting the Greek courts and bureaucracy often results in lack of flexibility and delays. However, in recent years there have been significant efforts to simplify and expedite proceedings wherever possible.

3. CORPORATE VEHICLES

3.1 Most Common Forms of Legal Entities

The main corporate vehicles available to businesses under Greek law (and described forthwith) are:

- the stock corporation (*Anonymi Eteria* or AE);
- the Limited Liability Company (*Eteria Periorismenis Efthinis* or EPE);
- the Private Company (*Idiotiki Kefaleouchiki Eteria* or IKE);
- the General Partnership (*Omorrythimi Eteria* or OE); and
- the Limited Partnership (*Eterorrythmi Eteria* or EE).

Anonymi Eteria

The AE is the equivalent of a *SociétéAnonyme* – ie, a stock company governed by Law 4548/2018. This legislation rules that the liability of shareholders is limited to the amount of

their contribution to the share capital, which is represented by shares of stock. The AE may issue different classes of shares (common and preferred), which are only registered, but is the only vehicle that can issue bond loans. Incorporation requires at least one shareholder – either a natural or legal person – to obtain a Greek Tax Registration number (AFM).

Due formation of an AE is subject to a minimum capital requirement of EUR25,000 and must be fully paid within two months of the effective date of incorporation, unless partial repayment is permitted. Contributions in the AE are of a capital nature, although payment may take place either in cash or in kind – ie, other assets (including intangibles).

The AE is generally considered the most appropriate form for large multi-stakeholder businesses and may be privately held or publicly traded.

Limited Liability Company

The EPE is governed by Law 3190/1955, which was amended by Law 4541/2018. As a general rule, the liability of the partners is limited to the amount of their contributions. However, it is important to mention that the above-mentioned liability is joint and several until the publication formalities before the General Commercial Registry take place. It should be noted that the establishment of a single-partner EPE is invalid if:

- the sole partner (individual or legal entity) is the sole partner of another single-partner EPE; or
- the sole partner of the single-partner EPE is another single-partner EPE.

Additionally, foreign entities and foreign individuals must be registered with the competent Greek fiscal authorities and obtain an AFM in order to become partners in an EPE. Due formation of an EPE is subject to a non-minimum capital requirement. Consequently, the partners may freely determine the amount of capital to be contributed. Contributions in an EPE are of a capital nature, although payment may take place either in cash or in kind. It should be noted that, after the latest amendment of Law 3190/1955, each company part must have a nominal value of at least EUR1.

The EPE constitutes the common corporate vehicle of choice for small and medium-sized businesses as it combines features of a partnership and a corporation.

Private Company

The IKE is governed by Law 4072/2012, as amended and in force. As a general rule, an IKE shall be solely responsible for any and all its liabilities, without joint liability on behalf of its partners. It may be constituted by one or more natural or legal persons or be incorporated as (and later become) a single-member company. Moreover, foreign entities and foreign individuals must be registered with the competent Greek fiscal authorities and obtain an AFM in order to be partners of an IKE.

Due formation of an IKE is subject to non-minimum capital requirement – the IKE's capital may even amount to EUR0. Indeed, contributions to an IKE's capital can be made either through capital contributions (meaning contributions in cash or in kind), non-capital contributions (eg, an employment relationship, know-how or intangible goods) or contributions of guarantee (defined as the undertaking of liability for company debts vis-à-vis third parties).

An IKE is often the most cost-efficient form and offers such a flexible structure that it has become increasingly popular in recent years (especially with start-up businesses).

General Partnership

The OE is governed by Law 4072/2012 and defined as a partnership in which all partners are liable, jointly and severally, for the partnership debts.

Such a business type is very flexible – and requires minimum costs for establishment and legal compliance – yet entails a serious risk for the participants, as they are subject to personal liability for corporate debts. All partners of an OE qualify as "merchants", by operation of law, solely on the basis of their participation in an OE (derivative commerciality of the partners). The bankruptcy of the legal entity of the OE results ipso facto in the parallel bankruptcy of its partners. The OE is therefore most commonly used for small family businesses. There are no minimum capital restrictions for due formation of an OE.

Limited Partnership

The governing instrument for the EE is also Law 4072/2012. An EE is a partnership with one or more general partners and one or more limited partners. Specifically, an EE cannot exist without at least one general partner and, should the general partner cease to participate, such partner must be replaced or else the partnership will be dissolved. However, if the limited partner of an EE has ceased to participate in any way, the partnership may continue trading in the form of an OE.

The general partners in an EE have unlimited liability, whereas the limited partners have limited liability for up to the amount of their contribution only. General partners are fully liable, in other words, for any of the EE's debts in parallel with the latter. Thus, any third party may seek resolution of a claim against the EE from a general partner, without first having to turn against the partnership itself.

A limited partner may be fully liable for the EE's debts only if their name is included in the partnership name and the debtor in question is not aware that they are a limited partner. There are no minimum capital restrictions for due formation of an EE.

It is worth noting that joint ventures and entrepreneurships are also recognised under Greek law.

3.2 Incorporation Process

All the legal entities mentioned earlier are formed through a simplified, One-Stop-Shop (OSS) or Electronic One-Stop-Shop (e-OSS) procedure (Law 4919/2022). One exception is the IKE, which – unless provided otherwise by the law – is solely and exclusively incorporated electronically by the founder(s) or any authorised person through the e-OSS procedure using the Model Articles of Incorporation. Otherwise, a legal entity may be incorporated either via a notarial deed or the Model Articles of Incorporation through the General Commercial Registry Service's establishment process.

The law provides that the establishment of a legal entity may take place by means of a notarial deed before a notary public, who is certified to act as an OSS and is responsible for the online registration of the establishment of each legal entity with the General Commercial Registry.

Alternatively, the legal entity is established through the General Commercial Registry Service by using the Model Articles of Incorporation, whose content is provided in law (or with any additional provisions at the founder's discretion). All necessary actions for the due registration of the company are executed through the General Commercial Registry Service or may be registered electronically by the founder(s) or any authorised person through the e-OSS procedure. This can even be completed within one business

day. It is worth noting that the legal entity to be established can apply to open a bank account with any banking institution through the OSS' Information System.

The establishment of an IKE may be completed within one business day from the completion of the e-OSS procedure and for a relatively lower cost than an EPE.

Legal entities are deemed to have been formed as of the date of their registration with the General Commercial Registry. A summary of the newly established company's Articles of Incorporation is then published on the General Commercial Registry website. The legal entity, once it is established, automatically acquires:

- General Commercial Registry number ("GEMI" number);
- an AFM; and
- a European Digital Identity to facilitate communication between the registries through the Business Registers Interconnection System.

The establishment procedure for legal entities is usually completed within five days, following collection of all necessary documents – with the exception of e-OSS procedures, which can be completed within one business day.

3.3 Ongoing Reporting and Disclosure Obligations

All companies (whether public or private) must disclose certain resolutions taken either by the board of directors/administrators or by shareholders' meetings or meetings of partners, as set out by the law. These include share capital increases or decreases, amendments to the Articles of Incorporation, transformations, election of the board of directors and invitations to General Meetings.

Such information must be submitted or uploaded to the website of the competent General Commercial Registry ("GEMI" website) within 20 days. Companies subject to International Accounting Standards must also publish certain information (such as annual financial statements) on their website.

Unlike other types of companies, AEs are additionally required to disclose:

- a change in the identity of the sole shareholder or concentration of all shares to one sole shareholder; and
- any resolutions regarding the approval of related parties' transactions of the company.

Such actions/resolutions must be submitted or uploaded to the GEMI website.

Additionally, Law 4734/2020 transposed the EU's fifth AML directive (2018/843/EU), amending Law 4557/2018. According to this law, all companies (whether public or private) must disclose details on their "Ultimate Beneficial Owners" (UBOs). More particularly, within two months of each establishment procedure and each amendment of the respective information, each legal entity with a registered office in Greece is obliged to collect and keep adequate, accurate and up-to-date information on its UBOs to the Central Register of the Ministry of Finance.

3.4 Management Structures

The management structures found in the most common legal entities are:

- the General Meeting of Shareholders (GM);
- the meeting of partners for EPEs and IKEs;
- the board of directors (BoD or "Administrative Body");
- the board administrator/s for EPEs and IKEs; or
- sole director/administrator for small AEs.

Micro and small AEs have the right to appoint a single director/administrator instead of a board of directors, but this is not applicable to medium, large and listed companies. The classification of companies as "micro", "small", "medium" and "large" is based on quantitative criteria, provided for under Law 4308/2014.

The typical governing body in Greece is the BoD/administrative body (ie, Greece follows the one-tier governing model).

Although the administrative body in EPEs and IKEs consists of one or more administrators acting either separately or jointly, in AEs the BoD consists of at least three members and not more than 15 (the exact number is determined by the GM or the Articles of Incorporation).

Furthermore, as mentioned previously, the law makes it possible for the GM to elect a single-member administrative body (sole director/administrator) in micro or small-sized AEs. The sole director/administrator must always be a natural person and the same rules applicable to the BoD apply. Large and medium-sized companies, or companies with shares admitted to a regulated market, are exempt from the possibility of appointing a single-member board.

The GM is a company's highest governing body and the only competent body to resolve on certain material issues set forth in the law and the Articles of Incorporation. The administrative body's duty is to manage the company and represent it both judicially and out of court (ie, in its relations with third parties). The administrative body, in general, is competent to administer the company's assets and perform the object of the company's activity, within the limits of the law and excluding matters decided by the GM.

The administrative body may delegate the powers of management and representation of the company to one or more persons – be they members or non-members – if so permitted, in accordance with the Articles of Incorporation. The Articles of Incorporation may also authorise the administrative body or require the administrative body to entrust internal control to one or more non-members.

Additionally, following a respective provision in the Articles of Incorporation or a resolution by the BoD, AEs may also elect an executive committee to which certain powers or functions of the BoD may be delegated. The executive committee's composition, responsibilities, tasks and manner of decision-making, as well as any matter relating to its operation, shall be governed by the Articles of Incorporation or the resolution of the BoD that elected the committee.

The Hellenic Federation of Enterprises has also issued the Code of Corporate Governance (CGC), which is not mandatory for companies but rather "soft law". The code provides that companies admitted to a regulated market should, in addition to the BoD, establish an audit committee to audit financial information, operate the internal audit of the company efficiently, handle risk management and audit the independence and objectivity of the auditors of the company.

The BoD therefore operates through various separate committees (eg, audit, remuneration and nomination committees) in public companies, which also have:

- an internal audit unit;
- a shareholders' relations unit; and
- a corporate announcements unit.

3.5 Directors', Officers' and Shareholders' Liability

BoD members and administrators have two fiduciary duties towards the company when managing its affairs, namely:

- a duty of loyalty (to promote the company's best interests, accomplish the company's objectives and omit actions that could be harmful to the company's interests); and
- a duty of care (to abide by their obligations provided in the law, the company's Articles of Incorporation and the resolutions of the GM).

As a general rule, under Greek law any BoD member is liable only vis-à-vis the company for any default (either wilful misconduct or negligence, including slight negligence) – in other words, any act or omission that took place during the management of corporate affairs that was harmful to the company.

This liability shall not exist if the BoD member proves that they showed the diligence of a prudent director operating in similar circumstances and thus met the requirements of the "business judgment rule" in the performance of their duties. The determination of whether the BoD member in question met this standard should also take into consideration their particular skills and capacities, their respective position and/or the duties that were assigned to them.

Liability does not exist, under the "business judgment rule" test, where acts or omissions:

- were performed on the basis of a lawful resolution reached by the GM; or
- constitute a reasonable business decision, which was reached in good faith in order to further the corporate interest, based on sufficient information available at the time.

It should be noted that, with respect to the aforementioned fiduciary duties, liability and exemption therefrom also apply to third persons (non-BoD members) who have been assigned representation and/or managerial powers by the BoD. Breach of the BoD members' fiduciary duties may trigger a legal action brought by the company against them. The company's claims are time-barred three years after the act or omission.

If a joint act by more than one member of the BoD causes damage, or if more than one person is responsible for the same damage, then they are all jointly liable. The court may also regulate the right of recourse between the liable directors.

A BoD member's liability vis-à-vis third parties may be on the basis of tort if it is established that an illegal act or omission has a direct causal link with damage sustained by the third party, including moral damages. This liability may apply where the company's suppliers, employees, shareholders or the Greek state are concerned.

Furthermore, personal liability is awarded to directors and managers in tax and social security legislation. Such liability extends to personal assets of the directors and managers. Directors and managers may also be held criminally liable for certain offences set out in the law. Monetary fines (and/or, in some cases, even imprisonment) are triggered for BoD members who fail to comply with obligations imposed by the law with respect to various issues, such as making false statements to the public about the registration and payment of share capital in publications.

The concept of parental liability often invokes issues at a national level concerning the principles of:

- the separate legal entity status of legal persons;

- equal treatment; and
- legal certainty.

Substantial reservations when it comes to piercing the corporate veil can be traced both in theory and case law, with only specific exceptions. These include:

- the subsidiary acting as a representative of the parent or just an instrument;
- the theory of principal's liability for agent's tortious behaviour;
- the theory of alter ego; and
- the insufficient capitalisation of the subsidiary.

According to the "principle of separation" standardly accepted in Greek law, each legal person is the carrier of only their own rights and obligations. As accepted in the wording of case law: "This basic rule (of independence) may not be observed only when, after an overall and constant weighing of interests and purposes (financial and social), another legal path is imposed. In order not to undermine the institution of legal personality, this diverging option is the exception to the rule, and it may be followed only when extremely serious or extraordinary conditions exist" (Piraeus Court of Appeals, 567/2008). Settled case law also provides that the shareholding relationship in itself is not enough to pierce the corporate veil, even if the businessperson holds or controls 100% of shares or parts of the legal person.

According to standard legal theory on piercing the corporate veil, the connection between affiliated companies does not harm the legal independence of dependent companies. It does not even cause indirect harm, as no provision exists establishing liability either under private or cumulative assumption of a company's obligations by an affiliate, even if the connection arises from universal participation or unlimited control. The affiliates enter into contracts independently, are independently liable and proceed to acquisitions independently. There is no such concept as "group liability of companies" because there is no such subject of the law.

As standardly accepted both by legal theory and case law (particularly with regard to affiliated companies and groups of businesses), piercing the corporate veil is only possible when there has been an attempt to abuse the liberty of the organisation, either with the aim of circumventing the law or abusing the institution of legal personality. The main criterion for said abuse is that the dominant partner uses the legal personality to circumvent the law, fraudulently damage a third party or as a barrier in order to avoid obligations.

4. EMPLOYMENT LAW

4.1 Nature of Applicable Regulations

Contractual Nature

It should be preliminarily noted that the employment relationship is essentially a contractual one and, as such, is basically subject to the contractual arrangements between the parties. However, because there is an element of one party's subordination to the other, there are a high number of regulations to safeguard the weaker party's rights (ie, employees' rights). Protection of the employee pervades Greek employment law and its judicial interpretation and application.

Sources of Legislation

There is no unified employment code in Greece; instead, employment relations are regulated by an extensive corpus of provisions included in the Greek constitution, the labour legislation and its principles (such as the principle of equal treatment), Presidential decrees and ministerial decisions. Furthermore, collective labour agreements, arbitration awards and internal work reg-

ulations also introduce additional compliance obligations.

Statutory Wages

Pursuant to Greek law, minimum salaries are determined by the State (unless a collective labour agreement covers the employment relationship). The current statutory minimum wage is EUR713 per month and EUR31.85 per day.

4.2 Characteristics of Employment Contracts

Contract Types

The two main types of employment contract in Greece are indefinite-term contracts and fixed-term contracts, both of which are further differentiated into full-time and part-time contracts.

Apart from specific exemptions provided in the law, such as part-time employment or renewal of a fixed-term employment agreement, employment contracts are concluded either in writing or verbally. The terms of employment, as well as any subsequent amendments, usually take the form of a written contract.

Fixed-term contracts

The conclusion of fixed-term employment contracts must generally be justified by some specific ("objective") grounds, which must be mentioned in the contract, such as:

- the time required to perform a specific task for the employer;
- the type or nature of the activity; or
- by particular needs (eg, seasonal or extraordinary needs).

The employee could claim, in the absence of such circumstances, that the execution of the fixed-term contract (instead of an indefinite-term one) constituted a circumvention of their lawful rights, including the right to receive severance indemnity upon termination. Consequently, the employee could claim the conversion of the contract into one of indefinite term.

The law provides for a presumption that fixed-term employment contracts aim to cover fixed and permanent needs of the employer and could therefore be converted into indefinite-term employment contracts in cases where:

- the duration of successive contracts/renewals of fixed-term exceeds three years in total; or
- there are more than three successive contracts/renewals within a three-year period.

Probationary Period

The first 12 months of employment under an indefinite-term contract constitute statutory probationary period and the employment relationship may be terminated by the employer without notice or severance payment, unless otherwise agreed between the parties.

However, fixed-term contracts cannot have a probationary period as their termination before the agreed expiry date is permitted only for "serious cause".

4.3 Working Time

Working Hours

The maximum number of working hours for employees in Greece (within a five-day working week, which is most common in practice) are eight hours per day and 40 hours per week. The employees' specific working schedule must be included in the employer's official personnel list, which is submitted annually to the labour authorities through the electronic platform for employer notifications (ERGANI). Any changes thereto must also be notified to the authorities prior to their implementation.

The provision of work beyond the 40-hour limit and up to 45 hours per week constitutes "overwork" and must be compensated by the

employer with an amount equal to the employee's hourly wage increased by 20%.

Any work exceeding the limit of 45 hours per week (or nine hours per day) constitutes overtime and is allowed in principle only on an exceptional and short-term basis (eg, unexpected workload, urgent tasks or unforeseeable events). Overtime work is allowed for up to three hours per day and 150 hours per year. Lawful overtime is compensated with the employee's hourly wage increased by 40%. Overtime exceeding 150 hours per year (which is permitted only by the labour authorities at the employer's request) is compensated with the employee's hourly wage increased by 60%.

The employer is obliged by law to notify the authorities about the conduct of overtime on the effective date at the latest and, in any case, before the commencement of such work. If the relevant procedural requirements are not followed, the overtime is characterised by law as "illegal" overtime and must be compensated with the employee's hourly wage increased by 120%. It should be noted that the compensation for overtime work cannot be validly set off against the excess part of the employee's salary (as permitted for the compensation of other types of extra work).

Managerial Employees

Managerial employees are not subject to restrictions on working time and therefore not entitled to overwork/overtime payments, etc. However, the classification of an employee as managerial ultimately lies with the court, which in the case of a dispute would determine their status according to criteria set by law and based on the employee's individual characteristics and the factual background of each case.

Annual Leave

Current legislation entitles employees to a percentage of their annual leave corresponding to the term of their service with the employer during the first and second calendar years of employment. Employees accrue their total annual leave entitlement as of January 1st from the third calendar year onwards.

For employers who follow the five-day working week (which is the norm), the employee's annual leave entitlement is equal to 20 working days, which is increased to 21 days upon completion of 12 months of employment and 22 days upon completion of 24 months of employment. The employee's annual leave entitlement increases to 25 days upon completion of 10 years of service with the same employer or 12 years with any employer, while after completion of 25 years of service with any employer it is increased to 26 days.

The recent Law 4808/2021 introduced a carry-over right for the first time, which means that employees can use their annual leave entitlement up to the end of March of the next calendar year (as opposed to the end of the calendar year, which used to be the case under the previous legal framework). The exact time of granting and breakdown of annual leave is subject to specific rules provided in the law.

4.4 Termination of Employment Contracts

Indefinite-Term Contracts

Termination process

According to Greek law, the termination of indefinite-term employment contracts by the employer requires:

- service of a written termination letter to the employee; and
- payment of the minimum severance indemnity provided by law (unless a higher amount of severance has been agreed between the parties or a business practice of paying such higher amount exists).

Furthermore, in order for the termination to be valid, the employer must have registered the employee with the state social security system on the first day of employment.

The law does not require the service of a prior notice of termination to the employee unless agreed between the parties. Nevertheless, if the employer gives the employee "lawful notice" – ie, a minimum period of notice set by law (ranging from one to four months) based on the employee's length of service – the employee is entitled to half the minimum severance indemnity that applies to termination without prior notice. This option, however, of termination with the lawful notice period is rarely followed in practice (ie, most employers prefer to terminate the employee with immediate effect and pay the full severance indemnity).

Severance indemnity

The minimum severance indemnity is calculated on the basis of the employee's length of service with the specific employer, plus their "regular emoluments" over the past month prior to termination, and is equal to a number of monthly regular emoluments (ranging from two to 12 for most employees). "Regular emoluments" include base salary and benefits granted regularly over an extended period of time.

Challenging the validity of termination

The employer is not obliged by law to state the reasons for the termination on the termination letter. However, according to the Greek courts, the termination may be declared "abusive" or "unfair" (ie, void) if the employer is not able to prove a reason that could objectively justify it.

The above-mentioned recent Law 4808/2021 introduced a list of prohibited reasons for termination, including:

- termination on discrimination grounds;
- vindictive termination following the exercise by the employee of their lawful rights; and
- termination that is contrary to applicable legislation, such as:
  (a) collective dismissals;
  (b) termination of pregnant employees or union officials;
  (c) termination in cases of harassment; or
  (d) termination during the employee's annual leave.

The statute of limitation for challenging the validity of the termination is three months from the termination date. If a claim for the invalidation of the dismissal is upheld, the court will order the employer to:

- reinstate the employee;
- pay all back salaries with interest from the termination date until reinstatement or until the issuance of a final court judgment (which could take some years); or
- alternatively, adjudicate compensation in favour of the employee.

Redundancy

The employer must also comply with certain other requirements, as set out in the jurisprudence of the Greek courts, when making an employee redundant. These include the exhaustion of all alternative means ("principle of ultima ratio") and the application of specific selection criteria between comparable employees. The latter is primarily in terms of performance but also on the basis of social criteria – eg, seniority, age, family status and financial status.

Fixed-Term Contracts

Employment contracts of fixed term expire automatically upon their agreed expiry date without payment of severance indemnity. However, early termination of such contracts is possible but only for "serious cause". No severance or other

indemnity is due to the other party where termination is due to serious cause.

Pursuant to the jurisprudence of the Greek courts, serious cause constitutes "any cause [that], in accordance with the principle of good faith, makes the continuance of the employment contract impossible for the parties". Generally, the existence of "serious cause" is quite difficult to establish. The contract may not be validly terminated before its expiry date without the consent of the employee in the absence of serious cause.

Collective Redundancies

Dismissals – for reasons not related personally to the employees –conducted by employers with more than 20 employees constitute collective redundancies when they exceed the following thresholds:

- six employees per calendar month for enterprises with between 20 and 150 employees; and
- 5% of the personnel per calendar month (up to a maximum of 30 employees per month) for enterprises with more than 150 employees.

The employer must consult the employees' representatives before proceeding with collective redundancies, in order to investigate the possibility of avoiding or limiting them. If no agreement is reached with the employees' representatives, then the authorities must also be involved in the process prior to implementing collective redundancies.

4.5 Employee Representations

Greek law recognises two main types of employee representation bodies: trade unions and works councils. The establishment of such bodies is not obligatory for the employer but constitutes a right of the employees, which can be exercised under certain conditions provided in the law.

Trade Unions

The establishment of a trade union within a company requires it has at least 20 employees. The primary objective of a trade union is to safeguard and promote the labour and financial interests of their members through negotiations with the employer.

Trade unions participate in the resolution of collective labour agreements and personnel regulations. They also have the right of information and consultation before crucial decision-making (eg, in cases of business transfer or collective redundancies) and the right to strike and declare work stoppages.

Works Councils

Although not common in Greek practice, works councils can be established in companies with at least 50 employees (or 20 employees if no trade union exists in the company). Works councils enjoy specific information, consultation and (limited) co-determination powers under the law, with the aim of improving working conditions and protecting employees' rights.

5. TAX LAW

5.1 Taxes Applicable to Employees/ Employers

Any income derived from employment that is exercised within the Greek territory is viewed as having its source in Greece and therefore should be subject to tax in Greece. These domestic law provisions may be overridden by the provisions of any applicable double taxation treaty.

The following tax rates apply to taxable income from employment (ie, salaries and pensions), in accordance with the Income Tax Code:

- for taxable income up to EUR10,000 applicable rate is 9%;
- for the next EUR10,000 applicable rate is 22%;
- for the next EUR10,000 applicable rate is 28%;
- for the next EUR10,000 applicable rate is 36%; and
- for more than EUR40,000 applicable rate is 44%.

For certain categories of taxpayers, separate rates apply.

Additionally, a special solidarity contribution is applicable on the total reported income of individuals, both taxable and tax-exempt. However, this special solidarity contribution has been suspended for employment income received from the private sector in the tax years 2021 and 2022.

As regards collection, the above taxes are to be withheld by employers. Such withholding tax does not exhaust employees' income tax obligation, but employees are obliged to file annual income tax returns reporting salaries received.

A special tax regime came into effect on 1 January 2021 for employees/entrepreneurs who wish to relocate to Greece. Qualifying individuals benefit from a 50% income tax and special solidarity contribution reduction on their annual Greek-source salary or business income for a period of seven years.

The person shall qualify for such special tax treatment if they cumulatively meet a number of conditions. Indicatively, the individual must:

- have a tax residence outside Greece for at least five out of the past six years;
- stay in Greece for at least two years;
- be a newly recruited employee of a Greek company or by a Greek permanent establishment of a foreign company.

Employment income is subject to social security contributions provided that the employment is exercised in Greece. Employers are liable for social security contributions in this case, apart from the above-mentioned obligation to withhold income tax on employees' salaries.

The main social security contributions are calculated at a 36.16% rate from the gross salary, out of which 13.87% is borne by the employee and the remaining 22.29% by the employer.

The above rates apply on a monthly income up to EUR6,500. No further social security contributions are imposed on any income exceeding this amount.

A social security exemption may be obtained under certain conditions by foreign employees performing their duties in Greece, subject to procurement of specified documentation (such as the Form A1 or another equivalent document).

5.2 Taxes Applicable to Businesses

Income Taxation

Residence as a criterion for income taxation of businesses in Greece

A company is subject to income taxation in Greece on its worldwide income if it is tax resident in Greece.

According to domestic rules, a legal person is considered tax resident in Greece if any one of the following conditions is met. Therefore, to be considered tax resident in Greece, the legal person must either have:

- been incorporated or established in accordance with Greek law;
- its registered seat in Greece; or

- its place of effective management located in Greece for any period during the tax year.

The place of effective management is determined by taking into account certain factors and circumstances specified in law, such as the place of exercise of the day-to-day management and the place of adoption of strategic decisions.

Most double taxation treaties that Greece has concluded determine the residence of a legal entity using place of its effective management as the main criterion in cases of dual residence in both contracting states.

Income tax rates for legal persons and legal entities

The ordinary income tax rate has been reduced to 22% (from the previous 24%) from fiscal year 2021 onwards and is applicable to:

- businesses incorporated in the form of an AE, EPE or IKE;
- partnerships in the form of an OE or EE; and
- all other legal persons and entities defined in the Income Tax Code, including local permanent establishments of non-resident entities.

A 29% rate applies for credit institutions that have opted to apply a scheme that enhances capital adequacy by converting deferred tax assets into deferred tax credits against the Greek State.

Business income earned by individuals directly engaged in a business that forms part of their taxable basis, including any salary and pension income, is taxed at a progressive scale ranging from 9% to 44%.

Businesses are obliged to prepay a certain percentage of their income tax each year in the form of an income tax prepayment. The applicable percentages are 80% for legal persons and entities, 100% for banks and 55% for business income earned by individuals.

Determination of taxable income

Taxable profits of businesses are based on accounting profits, subject to the special rules and classifications provided in the income tax legislation. Generally, taxable profits equate to the aggregate revenue that remains after deductible business expenses, depreciation allowed for tax purposes and certain provisions for bad debts.

As a rule, the profits of incorporated businesses are taxed on an accrual basis. Any profits that have not previously been taxed are subject to tax upon distribution or capitalisation.

Withholding tax on income

Withholding taxes are deducted from payments of dividends, interest and royalties, as well as – provided they are paid to an individual – fees for technical services, management fees, consulting fees and other fees for similar services.

Companies that are not resident in Greece will be subject to income tax in Greece only by way of withholding on Greek-source interest, royalties and dividends. Any tax thus withheld exhausts their Greek tax liability under domestic legislation. This only applies if they do not have a permanent establishment in Greece to which the relevant profits would be attributable.

Dividends

As of 1 January 2020, 5% withholding tax applies on dividends acquired under domestic law. Dividends distributed to qualifying EU parent companies are exempt from any withholding tax, provided that:

- the parent company participates in the subsidiary with a minimum holding of 10% in the capital or voting rights for at least 24 months;

- the beneficiary company receiving the dividend payment is included in the list of companies referred to in Annex I, Part A of the EU Parent–Subsidiary Directive;
- the beneficiary company is tax resident in an EU member state and, under the terms of an income tax treaty concluded with a third state, is not considered resident for tax purposes outside the EU; and
- the beneficiary company is subject to one of the taxes listed in Annex I, Part B of the Directive – without the possibility of an option or exemption – or to any other tax that may be substituted.

Until completion of the minimum holding period, a bank guarantee for the due amount of withholding tax can be deployed instead of paying the withholding tax and a posterior refund claim.

A special anti-avoidance rule prohibits the withholding tax exemption on the aforementioned qualifying dividend payments where the relevant exemption is claimed in the context of artificial arrangements. Such arrangements are not put in place for valid commercial reasons, reflecting economic reality, but rather aim mainly to obtain a tax advantage.

Interest and royalties

Domestic law states that 20% withholding tax is payable on Greek-source royalties and 15% withholding tax is payable on Greek-source interest.

Interest and royalties paid to qualifying EU associated companies are exempt from any withholding tax, provided that:

- the beneficiary company receiving the interest or royalties participates in the payor with a minimum holding of 25% in the capital or voting rights for at least 24 months, or the payor participates in the beneficiary company with the same minimum holding, or a third company participates in the payor and the beneficiary with the same minimum holding;
- the beneficiary is included in the list of companies referred to in the Annex to the EU Interest and Royalties Directive;
- the beneficiary is tax resident in an EU member state and is not considered resident for tax purposes outside the EU under the terms of an income tax treaty concluded with a third state; and
- the beneficiary company is subject to one of the taxes listed in the EU Interest and Royalties Directive – without the possibility of an option or exemption – or to any other tax that may be substituted.

Until completion of the minimum holding period, a bank guarantee for the due amount of withholding tax can be deployed instead of paying the withholding tax and a posterior refund claim.

Withholding tax exemptions on the above-mentioned types of payment also apply when making them to beneficiaries in Switzerland – under conditions similar to those applied when paying EU qualifying companies.

As an example of further exemptions from the interest withholding tax imposition, from 1 January 2020 interest payments to non-resident individuals and legal entities without a permanent establishment in Greece are exempt from interest withholding tax. This applies insofar as the interest is on corporate bonds listed on trading venues within the EU or on organised markets outside the EU, provided an authority accredited by the International Organisation of Securities Commission regulates such markets.

Domestic withholding tax rates on interest, dividends and royalties can be reduced or eliminated if payments are made to beneficiaries in jurisdictions with income-tax treaties.

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Value Added Tax

Value added tax is levied on all transactions relating to goods and services. The standard VAT rate is 24%, although reduced rates are also available (eg, for hotel accommodation). VAT is not an economic burden for companies with the right to fully deduct input VAT.

Stamp Tax

Stamp tax is levied on documents issued or executed in Greece as part of certain transactions that are not subject to VAT.

The most common transactions that are subject to stamp tax are certain commercial leases, certain loans and transfers of ongoing business concerns.

A 2.4% or 3.6% stamp tax may be applied to a transaction depending on the type of parties involved. The rate for commercial leases is 3.6%.

Real Estate Transfer Tax and VAT on New Buildings

The transfer of real estate is subject to a 3% real estate transfer tax, which is borne by the purchaser and based on a value imputed for tax purposes (either "objective value" or the actual transfer value agreed; whichever is higher). An additional 3% municipality tax is applied on the amount of the real estate tax. Reduced rates of real estate transfer tax apply in certain corporate reorganisations, such as mergers.

The sale of new buildings or parts of new buildings (ie, those transferred before their first occupation that have building permits issued after 1 January 2006), and the land on which they stand, is in principle subject to VAT at 24%.

As a way to boost construction activity, VAT on said sales has become optional for transfers taking place between 1 January 2020 and 31 December 2022, both for buildings that have been completed or those that will be completed during this timeframe. Contractors that opt not to charge VAT are not entitled to deduct VAT on construction and other expenses.

Unified Real Estate Tax

Incorporated businesses owning property rights on real estate located in Greece are subject to a unified real estate tax, commonly referred to as ENFIA, which consists of a main and a supplementary tax. The basis rate for the main tax (which is then multiplied by set coefficients depending on the particular case) for buildings ranges from EUR2 to EUR16.20 per square metre. For plots of land within the city planning, the range is from EUR0.0037 to EUR9.25 per square metre. Finally, for land outside the city planning the basic tax ranges from EUR1 to EUR3 per square metre.

The supplementary standard tax rate is set at 0.55%, with properties that are used by the taxpayer for business activities subject to a supplementary tax of 0.1%. Several exemptions from the tax or reduced rates are available for specific categories of properties and/or taxpayers (eg, real estate investment companies).

Special Real Estate Tax

The ownership of Greek real estate by non-transparent structures is tackled by imposing a special tax on real estate owned as of January 1st each calendar year at a rate of 15% of the real estate's imputed value. The tax does not apply in practice to a great number of incorporated businesses owning Greek real estate, based on several exemptions. Recent amendments to the special real estate tax legislation harmonise the regulated investment vehicle exemption with the domestic and EU legislation that applies to relevant schemes.

Capital Accumulation Tax

A special tax is imposed on capital accumulation at a rate of 0.5%. This applies to capital in cash or in kind contributed to legal entities of any form in the context of a capital increase. Such tax is not imposed on the capital accumulated when establishing an entity. A duty of 0.1% on share capital is additionally imposed on companies taking the form of an AE in favour of the Greek Competition Committee.

Listed Shares Sales Tax

A transfer tax at the rate of 0.2% is levied on sales and stock lending in respect of listed shares.

Banking Levy

An annual banking levy, Law 128 contribution, applies to loans and credits granted by Greek and foreign credit and financial institutions. The applicable rates depend on the type of credit, and range between 0.12% and 0.6%.

5.3 Available Tax Credits/Incentives

Special Incentives for Technology Investments

R&D expenses and patents

Subject to a governmental or simplified audit procedure, a super-deduction of an additional 100% of certain R&D expenses is available at the time such expenses are realised (including any depreciation of machinery and equipment used for R&D purposes).

Special tax incentives apply for profits derived from the exploitation of international patents developed by the business. These profits are exempt from corporate income tax for a period of three years – subject to a connection with R&D expenses incurred during the patents' development, which are determined according to a nexus ratio. Relevant profits are recorded in non-taxable reserves until they are distributed or capitalised.

Certain instruments and equipment used for R&D that are set by governmental decision can be amortised at a 40% rate annually.

Special regime of Law 89/1967

The cost-plus regime of Law 89/1967 provides a special framework for establishing shared-services centres rendering certain services specified in the law to associated companies in Greece. It includes marketing and consulting services, software development, IT support, data management and storage and computer-based call centres within its scope.

The regime provides for the full deductibility of business expenses, which concur to form the taxable gross revenues for income tax purposes after addition of a profit mark-up. This cannot be less than 5% and is acknowledged in advance by the tax authorities. Eligibility under the regime presupposes import of funds, annual expenditures of at least EUR100,000 and employment of at least four persons (one of whom can be part-time).

Other Special Incentives

The current EU-compliant framework for establishing private investment aid schemes for a country's regional and economic development includes state grants in the form of tax exemptions (or deduction of eligible expenses) for eligible investments.

The key aid schemes are provided for the digital and technological transformation of enterprises that is known as the green transition – environmental business upgrade, logistics, tourism investments, etc.

EU-compliant tax incentives for the production of audiovisual content and the development of source code for computer game software enable a 30% deduction from taxable income of eligible expenses incurred in Greece.

Incentives for the creation of new jobs are also available in the form of an additional 50% deduction in the amount of social security contributions paid by employers (subject to a maximum limit specified in the law).

Specific tax incentives, such as exemption from real estate transfer tax, are available to entities that acquire property and commence activities in special industrial zones and entrepreneur parks.

Green incentives

Incentives for sustainable development include an additional 30–70% deduction for expenses connected to environmental protection – eg, in relation to zero or low emission vehicles or public transportation season tickets. Explicit deductibility of expenses related to Corporate Social Responsibility activities from corporate income tax has also been introduced as an incentive for sustainable development.

Strategic investments

New legislation was introduced in 2019 that aimed to streamline the existing framework for attracting strategic investments in all sectors of the Greek economy through the grant of incentives.

Strategic investments are defined as those that can produce material quantitative and qualitative results in the process of expanding employment, reconstructing production and enhancing the country's natural and cultural environment. Additional categories of investments were included in 2021, such as flagship investments to promote green economy, innovation, technology and the economy of low energy and environmental footprint (if implemented before 31 December 2025). These investments are to be financed by the EU Recovery and Resilience Plan for Greece.

Strategic investments would mostly embrace extroversion, innovation, competitiveness, comprehensive planning, the preservation of natural resources in the context of the circular economy and high added value, notably in the business sectors of international trade and services. The tax incentives offered are:

- stabilisation of the tax rate for 12 years;
- income tax deferral;
- accelerated depreciation; and
- beneficial taxation for expatriate executives.

Shipping tax regime

A tonnage tax regime applies to ship-owning companies as well as companies chartering bare vessels or companies leasing vessels under a foreign flag. The tax is calculated based on the capacity and age of the vessels and exhausts any further income tax obligation of the ship-owning company, bareboat charterer or ship lessee, as well as such entities' shareholders, for income arising from the operation and exploitation of the vessels.

Tonnage tax on vessels under foreign flags is imposed only where those vessels are managed in Greece by companies that have established offices in Greece for such management. The income of such management companies is exempt from tax under a specially regulated regime. Vessels flying EU or EEA member state flags can also be subject to the tonnage tax regime depending on their defined type of vessel, regardless of their place of management.

Greek companies and foreign companies that have established an office in Greece under the aforementioned special regime and engage in activities other than the management of vessels (eg, brokering and chartering, sale and purchase, and building of ships under a Greek or foreign flag that weigh more than 500 gross registered tonnes) are subject to an annual contribution. This is calculated based on the amount of funds (in EUR or other currency) that the law states

must be imported into Greece annually in order to cover their operating expenses.

Family offices

A recently introduced regime offers tax incentives for the establishment in Greece of family offices to manage and administer the wealth and assets of Greek tax resident individuals and their families. Qualifying family offices should incur annual expenditure of at least EUR1 million and should employ at least five employees. The taxable gross revenues of family offices are determined by adding a 7% profit mark-up on all costs incurred, thereby ensuring the full tax deductibility of the relevant costs. Services provided between the family office and its members fall outside the scope of VAT.

5.4 Tax Consolidation

There is no tax consolidation regime in Greek tax legislation.

5.5 Thin Capitalisation Rules and Other Limitations

Interest Deduction Limitation Rules

According to domestic law and subject to a de minimis threshold of EUR3 million annually, exceeding borrowing costs are not deductible by local corporations and local permanent establishments of non-resident entities unless they exceed 30% of EBITDA. It is possible to carry forward the non-deductible portion at any time. The term "exceeding borrowing costs" is defined as the amount by which the otherwise deductible borrowing costs of a company exceed taxable interest revenue and other economically equivalent taxable revenue.

Credit institutions, insurance companies, Undertakings for Collective Investment in Transferable Securities, Alternative Investment Funds under conditions, certain pension schemes, etc, are exempt from the scope of the earnings-stripping rules.

5.6 Transfer Pricing

In accordance with domestic tax legislation, taxable profits are subject to readjustment in the case of transactions between related parties that are not in line with the arm's-length principle.

An individual or legal entity participating directly or indirectly in the capital or management of an enterprise is defined as a related party for transfer pricing purposes. A 33% threshold applies to the minimum direct or indirect participation in the capital or exercise of voting rights, above which entities are defined as related. The exercise of managerial control or decisive influence over an enterprise is also used to define related parties, irrespective of any participation in the controlled enterprise's capital or voting rights.

The current legal framework fully endorses the arm's-length principle, which was defined in Article 9 of the OECD Model Tax Convention and interpreted by the OECD Transfer Pricing Guidelines following the revisions introduced as a result of Actions 8–10.

5.7 Anti-evasion Rules

A General Anti-abuse Rule was introduced in Greece on 1 January 2014 as part of the wider measures to combat tax evasion and avoidance. Such rule was recently amended to incorporate part of the EU Anti-Tax Avoidance Directive into Greek domestic law. The rule allows tax authorities to ignore an arrangement or a series of arrangements that – having been put into place mainly for the purpose of obtaining a tax advantage that defeats the object of the applicable tax law – are not genuine in light of all relevant facts and circumstances.

An arrangement is considered non-genuine if it is not put in place for valid commercial reasons that reflect economic reality. The tax liability in these cases is determined as the tax liability that

would arise in the absence of such an arrangement.

According to the relevant guidelines, the burden of proof is on the tax authorities. Moreover, no avoidance is considered to exist solely by reason of a taxpayer seeking to reduce its tax burden.

A specific anti-abuse rule applies to tax-neutral corporate reorganisations (eg, mergers, share-for-share exchanges, spin-offs and demergers), effected under the framework of the Income Tax Code. According to this rule, tax benefits are withdrawn wholly or in part where the principal objective or one of the principal objectives behind the reorganisation is tax evasion or avoidance.

Additionally, a special anti-avoidance rule prohibits claiming withholding tax exemption for qualifying dividend payments on the basis of artificial arrangements put in place not for valid commercial reasons reflecting economic reality but rather to obtain a tax advantage.

6. COMPETITION LAW

6.1 Merger Control Notification

Any change in control that takes place on a lasting basis, comprising either the merging of two or more previously independent undertakings (or parts thereof) or the acquisition by one or more persons of control over another undertaking (or parts thereof), is considered a concentration under Greek competition law (Article 6 Law 3959/2011). This includes full-function joint ventures – ie, joint ventures that are able to perform on a lasting basis all the functions of an autonomous economic entity, per the definition outlined in the European Commission's Consolidated Jurisdictional Notice.

Concentrations are subject to notification to the Hellenic Competition Commission (HCC) prior to their implementation if, cumulatively, the combined worldwide turnover of all parties amounts to at least EUR150 million and at least two parties each have an aggregate Greek turnover exceeding EUR15 million.

6.2 Merger Control Procedure

If a concentration meets the jurisdictional criteria of Article 6 Law 3959/2011, it must be notified to the HCC for prior clearance before its implementation and within 30 calendar days of signing the agreement or publicly announcing the bid or commitment to acquire a controlling interest. The notification may be made through the submission of either a long form or a short form, depending on the complexity of the case/overlaps in relevant markets.

If the concentration does not raise serious concerns, it is cleared by the HCC in a decision that must be issued within a month of the date of notification ("Phase A"). If the HCC considers the notification incomplete, it can issue a request for information to the parties, at which point the clock on the one-month deadline stops. The parties can, within 20 calendar days of the date of notification, propose remedies to alleviate any concerns raised by the HCC during Phase A.

If the Phase A investigation raises concerns and the parties either fail to submit remedies or the remedies submitted are not considered sufficient by the HCC to alleviate its concerns, an in-depth investigation ("Phase B") is launched when the one-month deadline expires. The HCC will then have 90 calendar days to issue its decision. The Rapporteur has 45 calendar days from the launching of the Phase B investigation to submit a Statement of Objections ("SO") to the HCC Plenary. The parties may propose remedies to alleviate the anti-competitive concerns within 20 calendar days from the above-mentioned sub-

mission of the SO to the Plenary – in this case, the 90-day deadline for issuing a decision may exceptionally be extended by 15 days.

A concentration notification entails a fee of EUR1100, which is increased to EUR3,000 if a case progresses to a Phase B investigation.

6.3 Cartels

Article 1 para 1 Law 3959/2011 mirrors the wording of Article 101 para 1 Treaty on the Functioning of the European Union (TFEU) prohibiting anti-competitive agreements and concerted practices between undertakings (as well as decisions by associations of undertakings), which have as their object or effect the prevention, restriction or distortion of competition within the Greek territory. Particular reference is made to those that:

- directly or indirectly fix purchase or selling prices or any other trading conditions;
- limit or control production, markets, investment or technical development;
- share markets or sources of supply;
- apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage; or
- make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations that – by their nature or according to commercial usage – have no connection with the subject of such contracts.

Article 101 TFEU is also directly applicable in Greece and is enforced by the HCC in parallel with Article 1 Law 3959/2011 for cases that have both a Greek and an EEA dimension.

Article 1 para 3 Law 3959/2011 is the national equivalent of Article 101 para 3 TFEU, allowing an exemption from the prohibition of Article 1 para 1 Law 3959/2011 for any agreements, concerted practices or decisions by associations of undertakings necessary to generate efficiencies that are sufficiently passed on to consumers without eliminating competition in the relevant market.

EU Block Exemption Regulations, which provide a presumption of coverage under Article 101 para 3 TFEU, are also directly applicable in Greece to agreements falling under Article 1 para 3 Law 3959/2011, by virtue of Article 1 para 4 Law 3959/2011.

Greek competition law covers anti-competitive agreements or concerted practices that take place abroad but have effects in Greece. According to Article 46 Law 3959/2011, "the Law is applicable to all restrictions of competition that have effects or may have effects in the country, even if they are due to agreements between undertakings, to decisions by associations of undertakings, to concerted practices between undertakings or associations of undertakings, or to concentrations between undertakings, which take place or are undertaken outside the country or to undertakings or associations of undertakings that are not established within the country. The same applies with regard to abuse of a dominant position that manifests itself in the country".

6.4 Abuse of Dominant Position

Article 2 Law 3959/2011 mirrors the wording of Article 102 TFEU, which prohibits the abuse of a dominant position within the Greek market. Article 102 TFEU is also directly applicable in Greece and is enforced by the HCC in parallel with Article 1 Law 3959/2011 for cases that have both a Greek and an EU dimension.

Greek competition law covers abuse of dominance practices that take place abroad but generate effects in Greece (see Article 46 Law 3959/2011 in **6.3 Cartels**).

Greek law also prohibits conduct that amounts to an abuse of economic dependence. Specifically, Article 18a Law 146/1914 prohibits the abuse of an economically dependent relationship, which one or more other undertakings may find themselves in – whether upstream (ie, dependent undertaking is a supplier) or downstream (ie, dependent undertaking is a customer) – when the dependent undertaking does not have an equivalent alternative.

Article 18a Law 146/1914 lists the following conduct as the most prominent examples of an abuse of economic dependence:

- imposition of arbitrary transaction terms;
- discriminatory treatment; and
- sudden and unjustified termination of long-term commercial relations.

This prohibition has been part of the national legal framework dealing with unfair competition (Law 146/1914) since 2009 and is enforced by the civil courts in the context of private litigation, rather than by the HCC.

7. INTELLECTUAL PROPERTY

7.1 Patents

Article 5 of Law 1733/1987 states that "patents shall be granted for any new inventions that involve an inventive step and are susceptible to industrial application" (the "Greek Patent Law"). The invention may refer to a product, a process or an industrial application. The definition of invention in the foregoing context does not include:

- discoveries, scientific theories and mathematical methods;
- aesthetic creations;
- schemes, rules and methods for performing mental acts, playing games or doing business, and programmes for computers;
- presentation of information.

Patents are valid for 20 years, commencing the day after the patent application is filed.

Patent applications are filed before the Hellenic Industrial Property Organisation (OBI) and should contain all the information detailed in the Greek Patent Law, including:

- a description of the invention;
- a determination of one or more claims;
- any drawings referred to in the claims or the description; and
- an abstract of the invention.

A patent holder enjoys roughly similar protection to the protection conferred upon copyright holders, as described in **7.4 Copyright**, as well as design holders (see **7.3 Industrial Design**). It should be noted that the court may also order that the infringing products or a part thereof be rendered upon request to the plaintiff for his total or partial compensation, rather than destroyed.

7.2 Trade Marks

Law 4679/2020 (the "Greek Trade Mark Law") transposes the provisions of the EU Trade Mark Directive 2015/2436 "To approximate the laws of the member states relating to trade marks", as well the EU Enforcement of Intellectual Property Rights Directive 2004/48. "National trade mark" or "trade mark" means the rights granted by the OBI or the administrative courts, in accordance with the Greek Trade Mark Law regulated by the aforementioned EU laws, with effect in the Greek territory.

Trade marks are registered for a period of ten years from the date the application was filed;

registration may be renewed for further 10-year periods and in perpetuity.

For the registration of a national trade mark, the applicant must file a trade mark application before OBI. The application is then entered into the trade mark register and published in official trade mark databases (and/or web portals), where it is reviewed in terms of:

- completeness of its content;
- representation of the trade mark;
- description of the products and/or the services;
- any fees or other accompanying data or documents.

Thereupon, research is carried out to establish whether there are any pre-existing trade marks or absolute grounds for refusing the trade mark. Unless there are absolute grounds for refusal, the application is accepted and the decision is published on the OBI's official website in order to inform any third parties who would like to file oppositions.

The trade mark will be registered, provided either:

- no oppositions are filed;
- any oppositions filed are rejected by the Administrative Trade Marks Committee once the deadline for appealing to the administrative court of first instance has expired; or
- all oppositions are rejected by a final decision of the Administrative Courts.

Criminal sanctions may also be imposed on trade mark infringers; wilful trade mark infringement is subject to a minimum six months' imprisonment and an administrative fine of EUR6,000.

Registration of trade mark confers upon its owner exclusivity in terms of its exploitation. Therefore, any use undertaken by third parties without the owners' consent is unauthorised and as such prohibited. Trade mark infringement disputes are heard before the national civil courts. Trade mark owners are also entitled to request for interim measures, provided they can justify the urgency of the case.

If an infringement claim is brought before the civil courts, the trade mark owner may request that the court prohibit the following:

- affixing the sign to the goods or to the packaging thereof;
- offering the goods or putting them on the market under the sign (or stocking them for those purposes);
- offering or supplying services under the sign;
- importing or exporting the goods under the sign;
- using the sign as a trade or company name or part of a trade or company name;
- using the sign on business papers and in advertising; and
- using the sign in comparative advertising.

Moreover, in addition to the withdrawal of infringing goods, pecuniary penalties against infringers as well as moral damages can be imposed. It should be noted that moral damages may only be awarded if wilful misconduct or gross negligence is proven.

Finally, customs' detention procedures under EU Regulations No 1352/2013 (as amended by Regulation 2020/1209) and 608/2013 are also in place concerning goods subject to customs supervision and control that are suspected of infringing an intellectual property right.

7.3 Industrial Design

Presidential Decree No 259/1997 (the "Greek Industrial Design Law") governs national and international design applications that seek pro-

tection in the Greek territory. Protection is conferred on national designs provided that they are new and have an individual character. The design is valid for five years from filing with the OBI and may be renewed at five-year intervals for a maximum protection period of 25 years.

The design application is filed before the OBI and must contain all required information provided by the Greek Industrial Design Law, including:

- full details of the applicant;
- a description of the object(s) to which the design is intended to be incorporated; and
- a graphic or photographic representation of the design.

Provided that the application is completed in accordance with the Greek Industrial Design Law, the OBI will issue a certificate of registration for the design within four months and without examining the substantial elements of the application, as defined in Articles 12, 13, 14 and 15 of the Greek Industrial Design Law. Moreover, industrial designs may also be protected under Law 2121/1993 on Copyright, Related Rights and Cultural Matters (the "Greek Copyright Law"), provided that the legal requirements for protection are met.

If there is infringement or threat of infringement of a design, the design holder may claim the discontinuation of the infringement and its omission in the future. The discontinuation of the infringement may include, at the request of the applicant:

- recall from the channels of commerce of goods that they have found to be infringing rights under this law and, in appropriate cases, with regard to materials and implements principally used in the creation or manufacture of those goods;
- definitive removal from the channels of commerce; or
- destruction.

The need for proportionality between the seriousness of the infringement and the remedies ordered, as well as the interests of third parties, must be taken into account when considering the application of the foregoing request of the design holder. The court may impose a monetary penalty of up to EUR10,000 in favour of the right-holder for each act of omission contributing to an infringement. The aforementioned is also applicable in case of patent infringement.

7.4 Copyright

The Greek Copyright Law protects works of authorship associated with any original intellectual literary, artistic or scientific creation, expressed in any form, including:

- written or oral texts;
- musical compositions with or without words;
- theatrical works accompanied or unaccompanied by music;
- choreographies and pantomimes;
- audiovisual works;
- works of fine art, including drawings;
- works of painting and sculpture;
- engravings and lithographs;
- works of architecture;
- photographs;
- works of applied art;
- illustrations;
- maps; and
- three-dimensional works relative to geography, topography, architecture or science.

Copyright shall last for the whole of the author's life and for 70 years after their death, calculated from 1st January of the year after the author's death.

Copyright is non-registrable. However, the Hellenic Copyright Organization (HCO) has launched and developed a timestamping online service to help all authors (irrespective of the type of work created and regardless of whether they are professionals or amateurs) obtain a certain date as regards the existence of their works. The HCO's timestamping online service is available on its Electronic Timestamping website.

The Greek Copyright Law provides for several provisional and ordinary measures in the event of copyright infringement. Injunctive measures are available in urgent cases or to prevent any imminent infringement. Moreover, the copyright holder may resort to civil courts and file a lawsuit against the infringer claiming the recognition of this right, the discontinuation of the infringement and its omission in the future.

The copyright holder may claim for monetary and moral damages, the award of which depends on proving:

- an unlawful act, intention or negligence by the infringer;
- damage; and
- a causal link between the damage and the infringing act.

Criminal penalties as well as administrative fines and sanctions may be imposed on copyright infringers.

7.5 Others

Trade or industrial secret is protected in Greece under Law 4605/2019, which introduced inter alia specific provisions for the protection of trade secrets, as per the EU Directive 2016/943 "On the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure". This law established the legislative framework for appropriate measures, procedures and remedies against the illegal acquisition, use and disclosure of trade secrets. It does not, however, restrict the freedom of establishment, the free movement of workers or the mobility of labour, thereby ensuring the protection of the public interest and respect for fundamental rights and freedoms, such as:

- freedom of expression and information;
- the freedom to choose an occupation;
- the right to engage in work; and
- the freedom to conduct a business.

The following conditions must be met cumulatively for information to qualify for trade secrets. The information must:

- be secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;
- have commercial value because it is secret;
- have been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret.

Law 4605/2019 provides for enhanced judicial protection in case there is a breach of confidentiality requirements, even if all the aforementioned reasonable steps for maintaining information secret have been observed.

The trade secret holder may resort in the interim to the court of first instance and request the temporary cessation or prohibition of the use or disclosure of the trade secret on a provisional basis. The trade secret holder may – in relation to goods allegedly created on the basis of unlawful (or contra to contractual obligations) use of the know-how at stake – also request:

- the prohibition of the production, offering, placing on the market or use of infringing goods;
- the importation, export or storage of infringing goods for those purposes; or
- the seizure or delivery up of the suspected infringing goods.

The trade secret holder additionally may claim compensation for the actual damage suffered as a result of the unlawful acquisition, use or disclosure of the subject matter know-how and trade secrets. Finally, it is noteworthy that the aforementioned law provides for increased court secrecy surrounding the pertinent initiated proceedings.

The Greek Copyright Law protects, under Article 45A, the sui generis right of the maker of the database. The maker of a database has the right to prevent extraction and/or reutilisation of the whole or a substantial part – evaluated qualitatively and/or quantitatively – of the database's contents if they can demonstrate substantial qualitative or quantitative investment in either obtaining, verifying or presenting the contents of the database. This is because the database maker is deemed the individual or legal entity that takes the initiative and bears the risk of investment. The database contractor is not considered its maker.

8. DATA PROTECTION

8.1 Applicable Regulations

The main regulation applicable to data protection in Greece is the EU 2016/679 General Data Protection Regulation (GDPR), as supplemented by Law 4624/2019. The latter Greek law has also incorporated EU Directive 2016/680 "On the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data".

Additionally, Law 3471/2006 "On the protection of personal data and privacy in the electronic telecommunications sector" has transposed Directive (EU) 2002/58/EC, covering inter alia digital marketing and use of cookies.

Industry-specific data protection legislation is also in force – for instance, in the telecommunications sector, Law 3783/2009 on the identification of owners and users of equipment and services for mobile telephony. Another example is Law 3917/2011, which has transposed Data Retention Directive 2006/24/EC and applies to providers of publicly available electronic communication services or public communication networks.

8.2 Geographical Scope

The GDPR applies to the processing of personal data in the context of activities establishing a data controller or a data processor in the EU, regardless of whether the processing takes place within the EU or not.

The GDPR may also apply to data controllers and data processors not established in the EU, when their processing activities are related to:

- the offering of goods or services to data subjects in the EU (whether or not payment by the data subject is required); or
- the monitoring of the behaviour of data subjects in the EU, when their behaviour takes place within the EU.

The data controllers and processors must designate in writing an established representative in one of the EU member states where the behaviour of data subjects, whose personal data is processed for the purpose of offering them

goods or services, is monitored. Some exceptions apply. The representative's primary duty is to act as point of contact between the data protection supervisory authorities and data subjects on all issues related to the processing of personal data for the purposes of ensuring compliance with the GDPR.

Notably, Law 4624/2019 applies when:

- the data controller or data processor are established in Greece or process personal data within the Greek territory; and
- the data controller or data processor, although not established in the EU/EEA, fall within the regulatory scope of the GDPR nonetheless.

8.3 Role and Authority of the Data Protection Agency

The Hellenic Data Protection Authority, a constitutionally consolidated independent authority, monitors compliance with and enforces the GDPR and other applicable data protection rules in Greece.

The tasks of the Hellenic Data Protection Authority include those provided by the GDPR (Article 57), such as:

- monitoring and enforcing the application of the GDPR;
- promoting controllers and processors' awareness of their obligations under the GDPR;
- providing information to data subjects concerning their rights;
- handling complaints lodged by data subjects or entities;
- investigating the subject matter of a complaint and informing the complainant of the progress and the outcome of the investigation; and
- conducting investigations on the application of GDPR.

Law 4624/2019131 has introduced additional tasks for the Hellenic Data Protection Authority, which essentially expand those assigned by the GDPR and include:

- the issuance of directives and guidelines;
- the issuance of templates and complaint submission forms;
- and the general enforcement of Law 4624/2019 and other Greek data protection legislation.

9. LOOKING FORWARD

9.1 Upcoming Legal Reforms

No major legislative reforms are expected in the above-mentioned legal fields for the time being.

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Trends and Developments

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M&A in the Post-COVID Era

At a glance

The Greek M&A market welcomed an impressive boom in both deal volume and value in 2021 – regaining much of the ground lost during the COVID-19 pandemic, which caused a blow to corporate activity and had an impact on the global economy throughout 2020.

Key market players adapted to this new reality by focusing their efforts on the consolidation of activities and optimisation of their core operations. This enabled them to seek opportunities that fit in with their strategic goals and provide them with necessary operational and financial flexibility, rather than seeking a size and scale expansion.

This trend has led to a surge in restructurings and transformations, thereby increasing the pool of investment opportunities – particularly in the case of private equity investors, who have emerged willing to flow the significant amounts compiled throughout the past couple of years.

Private M&A deals seem to play the dominant role in the Greek transactional arena, whereas public M&A transactions – although continuing to gain ground in the local market during recent years – keep the interested parties quite reluctant to invest. This is mostly due to the additional protective covenants surrounding such transactions – eg, with respect to disclosure formalities and minority shareholders' rights.

Moreover, numerous privatisation projects that were put on hold owing to the COVID-19 pandemic are now restarting and moving towards completion. This has been facilitated by the Hellenic Republic Asset Development Fund, as these projects attract local and foreign investors alike and boost the local economy.

M&A developments

Despite the repercussions of COVID-19, the pandemic set in motion new challenging scores for M&A activity in 2021 across a number of sectors (eg, energy, food and beverage, financial services and software/IT services), with a flow ranging from traditional full-scale business acquisitions to strategic minority investments and the establishment of joint ventures as a means of risk-sharing. Corporate and private equity firms have also been revisiting old targets, which were put on hold because of the pandemic.

Greece builds more and more on its position as an investment destination among EU countries. The momentum for rejuvenating multiple projects in various economic sectors following the stalemate of COVID-19 appears unhindered by potential challenges that are showing up recently, such as inflation rates and supply chain complications – yet only time will tell.

The Greek government regularly puts measures and incentives in place to attract foreign investments and address concerns pertaining to the country's political and economic uncertainty. Furthermore, elements such as the high-quality local workforce and the low cost of living in Greece (compared with other EU countries) further contribute to the country's attractiveness. One issue that could be explored further is the threat of a potential impact on deal flow posed by the latest geopolitical turbulences, which mostly affects the energy sector.

The pandemic rendered investors more familiar with the nature of the risks and challenges involved in structuring a deal, with material adverse change (MAC) and force majeure clauses playing a starring part in all negotiations during the pandemic. Valuation of targets and projections of their future performance are now highly debated. Although the use of pandemic-specific terms may be less frequent today, most of the deals now include a contingent pricing component as a compromise and means of risk-sharing.

The reduced deal flow of the previous period means there are significant amounts of investor capital that are now waiting to reach the market. However, use of this capital is not limited to mega deals (which are not that common in the Greek jurisdiction anyway). Investors and particularly private equity funds now frequently target small and medium-sized businesses with growth potential, and remain on the lookout for potential synergies with their existing portfolios.

Even now, the transactional uncertainty maintains a central negotiating point in terms of structuring, particularly in deals with an extended pre-completion time-schedule. Sellers and buyers are both keen to minimise the other's walk-away rights, but break-up fees remain rarely used.

Furthermore, the risk limitation the investors were seeking during the past couple of years has now begun to reverse, while the focus on only credit-worthy counterparties has reduced and buyers now seem to adopt a risk-based approach having conducted due diligence on targets exclusively remotely.

The unavoidable information gap resulting from remote implementation of the due diligence exercise has rendered various contractual tools (eg, earn-outs and deferred payments or warranty and indemnity insurance) necessary for the mitigation of contrary expectations.

The focus is now on findings with a material impact on the targeted business, which are being addressed through specific indemnities in the transactional documentation. The inevitable information asymmetry between the two sides also necessitates the use of above-mentioned contractual tools to bridge the gap in expectations.

Finally, parties are becoming more mindful of extended deal-completion timelines, either by proactively engaging in preparatory actions prior to signing any long-form binding agreements or by fulfilling numerous conditions in order to reach completion.

Although significant improvement has been observed in public sector operations throughout the pandemic period, timing may be still an issue when dealing with public authorities owing to the existing bureaucracy. Timing is also crucial where restructurings and transformations are used by corporates as a means of unlocking value. Parties are devoting significant efforts to defining pre-completion covenants in great detail and aim to secure the value of targets in order to ensure the comfort of the buyers – all the while complying with the legal competition framework in force.

Legal framework and policy changes

Greece does not have a dedicated M&A legal framework. Any private M&A activity is subject to general corporate law provisions regulating the relevant legal entity, as well as applicable civil, commercial and criminal law provisions and the respective tax rules. The key pieces of legislation are:

- Law 4548/2018 on *sociétés anonymes*, Law 4072/2012 on private companies and Law

3190/1955 on limited liability companies regarding corporate matters;
- Law 3959/2011 (the Greek Competition Act) and Council Regulation (EC) No 139/2004 regarding the merger control system;
- Law 4601/2019 on corporate transformations; and
- the relevant provisions of the Greek Civil Code (where the parties opt for Greek law as the governing law of the transactional agreements).

Transactions meeting the jurisdictional thresholds prescribed by the Greek Competition Act must be notified to the Hellenic Competition Commission (HCC). A standstill obligation is imposed on the parties involved not to consummate the transaction until it has been cleared by the HCC.

The following regulatory bodies may also need to be involved in the process, depending on the type of M&A transaction:

- Bank of Greece, in the case of financial and credit institutions (or the European Central Bank for Greek systemic banks) and insurance companies;
- Hellenic Capital Market Commission (for listed entities, investment firms and any other entities supervised by it);
- Greek Regulatory Authority for Energy; and
- the Hellenic Gaming Commission.

Regarding recent legislative developments, the Greek Competition Act was amended in January 2022. The amendments introduced significant changes to the competition law framework in Greece, including amendments to applicable merger control rules.

COVID-19 has also shown the world the road towards a new digital universe. The organisational structure of businesses worldwide has transitioned to the digital world, targets operating in the software/IT industry have become more and more attractive towards investors and deals are now reaching completion using modern tools of remote due diligence, digital signatures and platforms such as DocuSign.

Technology has never been as important as it is in today's M&A arena. COVID-19 has effectively changed the way businesses are run and the way deals are made. Remote working has become the norm and executives and dealmakers have adapted to this new reality. Due diligence exercises are now mostly, if not exclusively, conducted remotely.

Finally, environmental, social and governance considerations are entering the spotlight when it comes to M&A activities, which are planned in the context of risk assessment and value creation. The Greek government has introduced favourable provisions for investments aiming to facilitate the transition to greener sources of energy and has initiated changes to the country's regulatory regime for renewable energy. Similarly, it is anticipated that future boardroom decisions on M&A strategies will be based even more on a need to invest responsibly and sustainably.

What's next?

Greece has been severely hit by economic recession in the past decade. The country's four systemic banks reached a critical point just a few years ago, leading to a feeling of distrust in the Greek M&A market. The country has tried to bounce back in the aftermath and is going through a period of political and economic stability. The Greek government enhances the positive momentum by enacting legislation (eg, a new law regarding strategic investments) that provides considerable incentives to investors.

The lessons learned from the pandemic are the key to unlocking value going forward. Corporate deal makers and their advisers appear to be committed now more than ever to delineating clear M&A strategies and implementing robust plans to navigate any challenges down the road. What remains to be seen is whether such M&A patterns are likely to be affected by the latest geopolitical turbulences and increasing inflation or whether M&A appetite remains strong and maintains the momentum.

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