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Contents

Moussas & Partners is a multidisciplinary legal practice based in Athens, Greece. The firm numbers a total of twelve attorneys and three trainees. It has a breadth of experience in complex transactions and dispute resolution and a distinguished record in acting for clients from a variety of industries and countries, before local courts as well as in international and local arbitration fora. The regular clientele features a number of international and domestic corporations. Notably, it has been acting for the various companies of one of Greece's leading industrial groups, Mytilineos SA. Furthermore, the firm has been defending manufacturers, distributers and dealers of products in cases related to alleged design or manufacturing defects. The client portfolio includes the VW/Audi/Seat group, Kraft Heinz, Hugo Boss, Nielsen, Siemens and Sony. A recent highlight of our track record in arbitration is the successful representation of Mytilineos Holdings in a bilateral investment treaty dispute against Serbia.

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1. General

1.1 General Characteristics of Legal System

Greece is a civil law jurisdiction. Laws are promulgated by the legislature and, under limited circumstances, by the executive. They are in the form of Statutes, Codes, Acts, Presidential Decrees or other Statutes and constitute the sources of statutory law (jus positivus). Additional sources are "the generally accepted rules of international law", international treaties ratified by law and European Union Law (primary and secondary) superseding national laws. Custom is of limited use.

Greek courts do not have law-making powers and are not bound by judicial precedents. However, courts, in general, adhere to established case law and especially to the judgments of the Supreme Civil and Criminal Court (Areios Pagos) as well as those of the Supreme Administrative Court (Council of the State), which dominate the decision-making processes of lower courts.

Civil courts adopt an adversarial model, whereas criminal courts follow an inquisitorial one. Administrative courts adopt a mixture of the two.

The recent reform of the Greek Code of Civil Procedure (hereinafter GCCP) has shifted the court's emphasis towards written submissions in the majority of proceedings, to expedite procedures in first and second instance courts. In the Supreme Court, however, the case is pleaded orally.

The legal process in criminal courts is principally oral; in administrative courts the rule is that submissions are always written and may also be presented orally, particularly in the Supreme Court.

1.2 Court System

Greece has a tripartite judicial structure comprised of civil, criminal and administrative courts. These operate at a national level with different territorial jurisdictions; no federal courts exist in Greece.

Territorial competence is established on the basis of the location of the residence of the defendant, where the disputed legal act was contracted, the location of the disputed immovable property, etc.

The GCCP provides for three types of civil courts of first instance:

- the Small Claims Courts having jurisdiction over monetary disputes not exceeding the amount of EUR20,000, disputes arising out of lease agreements where the monthly rent does not exceed EUR600 and disputes between joined property owners up to EUR20,000;
- the Single-Member Courts of First Instance having jurisdiction over disputes whose value range is between EUR20,000 and EUR250,000 and (exceptionally) over certain disputes even exceeding the EUR250,000 threshold depending on their nature (indicatively, labour and family law disputes), these courts also serve as appellate courts for judgments issued by Small Claims Courts; and
- the Multi-Member Courts of First Instance which are comprised by three judges, having jurisdiction over disputes for which the Small Claims Courts or the Single-Member Courts of First Instance are not competent (ie, if the value of the dispute exceeds EUR250,000).

In the second instance, the Single-Member Courts of Appeals (each consisting of one appellate judge) review decisions of the Single-Member Courts of First Instance. The Three-Member Courts of Appeals (each consisting of three appellate judges) review decisions of the Multi-Member Courts of First Instance.

The Supreme Court (Areios Pagos - Cour de Cassation) is the supreme court of the civil and criminal arm of the judiciary. It reviews appellate court decisions only on the basis of questions of law.

Although no specialised civil courts exist, certain categories of general areas of law (eg, labour, commercial, intellectual property, matrimonial disputes, etc) are assigned to specific civil court dockets. The possibility of assigning matters regulated by a specific legal framework (eg, banking, finance, capital markets, energy or telecommunications disputes) is under consideration. All shipping cases are tried by the special Maritime Courts in Piraeus, the latter being a major international maritime hub.

Administrative courts are subdivided into Administrative Courts of First Instance, Administrative Courts of Appeal and the Council of the State (Conseil d' Etat) which is the highest court of the administrative arm of justice. If Areios Pagos and the Council of State reach divergent rulings on constitutional issues, the Special Supreme Court, an ad hoc panel of justices, selected by both Areios Pagos and the Council of State, resolves the matter.

Criminal courts include One-Member Courts of Misdemeanours, Three-Member Courts of Misdemeanours, Mixed Jury Courts, One-Member Courts of Appeal, Three-Member Courts of Appeal, Mixed Jury Courts of Appeal, Five-Member Courts of Appeal and the Supreme Court (Areios Pagos). Further, there are juvenile courts and special criminal courts which try cases involving offences by military personnel serving in the army, navy or air force (courts martial, naval courts, air force courts).

1.3 Court Filings and Proceedings
Judicial proceedings are open to the public according to the Constitution, unless an open hearing might insult bonos mores or public policy.

In criminal investigation proceedings, access is granted only to the persons involved and, if to third parties, only where they have justified a lawful interest.

With respect to court filings, the General Data Protection Regulation and the implementing Law 4624/2019 constitute the legal framework providing the specific legal bases and conditions for personal data processing (eg, data subject's consent and the protection of a legitimate interest). While court filings and decisions issued were considered, in the past, to be of a public nature, data protection legislation and relevant concerns have, today, severely restricted access to any third-party court documents.

1.4 Legal Representation in Court
In order for a lawyer to be able to appear before the Greek courts, he or she should be registered with any Greek Bar Association. Escalation of the right to appear before first or second instance courts or the Supreme Court depends on the level of seniority of the lawyer.

An EU citizen may appear before Greek courts if he or she is a qualified lawyer in an EU member state, registered at any Greek Bar Association via the submission of evidence of a three-year actual and regular Greek legal practice (Presidential Decree 152/2000).

2. Litigation Funding

2.1 Third-Party Litigation Funding
The notion of litigation funding by a third party is not conceived of, or structured by, any specific Greek legislation, though certain insurance companies offer legal-expenses protection covering the costs of litigation. On the other hand, there are no rules for restrictions on funders. A litigation funding arrangement could currently take the form of a loan arrangement combined with assignment of future proceeds from litigation.

2.2 Third-Party Funding: Lawsuits
In the absence of a legal framework regulating third-party litigation funding, there is no restriction as to the type of lawsuit that could be funded.

2.3 Third-Party Funding for Plaintiff and Defendant
In the absence of a legal framework regulating third-party litigation funding, it could be made available to both the plaintiff and defendant.

2.4 Minimum and Maximum Amounts of Third-Party Funding
In the absence of a legal framework regulating third-party litigation funding, there is no minimum and maximum amount a third-party funder will fund.

2.5 Types of Costs Considered under Third-Party Funding
Costs that third-party funders will consider could include all fees and expenses (eg, costs for legal representation, court fees, expert fees, etc).

2.6 Contingency fees
The Lawyers' Code (ie, the rules of professional conduct and ethics for lawyers) provides that attorneys may, by specific written agreement, take cases on contingency. A contingency fee may not exceed 20% of the value of the case. If a client is represented by more than one lawyer in a single case, the aggregate contingency fees payable to all attorneys may not exceed 30% of the value of the case.

2.7 Time Limit for Obtaining Third-Party Funding
No time limits apply to obtaining third-party funding.

3. Initiating a Lawsuit

3.1 Rules on Pre-action Conduct
The recently enacted Law 4640/2019 regulates the new mediation procedure in civil and commercial matters. The provisions on voluntary mediation are effective as of the publication of the official governmental gazette (30 November 2019) whereas mandatory mediation provisions shall be effected as follows: (i) on family law disputes for lawsuits filed after 15 January 2020; and (ii) on cases subject to the competency of the Single-Member Courts (claims over EUR30,000) and Multi-Member Courts for lawsuits filed after 15 March 2020.

With respect to the mediation mechanism in general, Article 3 and the mandatory mediation of provisions of Articles 6 and 7 provide that, prior to the filing of any legal action, lawyers are obliged to inform their clients, in writing, of the mediation option and about the fact that the dispute falls under the mandatory mediation provisions. The document containing this information is required to be signed by the lawyer and the client and filed before the competent court until the date of hearing, otherwise the hearing shall be considered as inadmissible. This obligation to inform is effective as of 30 November 2019 and captures both voluntary and mandatory mediation, regardless of the fact that mandatory mediation shall be effective at a later stage (namely for lawsuits filed after 15 January 2020 and 15 March 2020 as explained above). Further, for disputes in relation to which a mandatory initial mediation session is provided, that session shall take effect under the penalty of rejection of the hearing

of the respective action as inadmissible by the competent court.

Furthermore, the above law provides a significant cost to initially resorting to the courts, namely a state fee (*dikastiko ensimo*) for all disputes which have a value exceeding EUR250,000 including pending ones (ie, disputes before the Multi-Member Courts of First Instance). This fee could previously be avoided if a lawsuit requested a declaratory judgment only, an option which has now been abolished.

However, the above law has received strong criticism from the legal community and it is highly likely that either the requirement of a state fee for declaratory claims is set aside or the provision is deprived of a retroactive effect.

In addition, it must be noted that, in principal, there are no pre-action requirements (pre-action protocols, letters of claim or pre-action notices) that parties need to meet prior to the commencement of proceedings. It is common for the parties to serve extrajudicial letters prior to the initiation of the trial assessing the possibility of prior resolution or settlement of the dispute.

In Special Proceedings, however, (indicatively, the order for the delivery of a leased property) service of an extra-judicial letter is required as a pre-trial step. Please see **7.1 Trial Proceedings** for an analysis of the two basic procedures.

3.2 Statutes of Limitations

The Greek Civil Code provides for a 20-year general statute of limitation from the occurrence of the unlawful act. However, shorter periods are provided for particular types of disputes. Indicatively, a five-year period is provided for commercial (or similar) business claims between professionals, starting at the end of the year in which the cause of action accrued. A similar five-year period applies to tort claims, starting from the date of the offence (or possibly at any later time when the injured party acquired knowledge of the incurred damage and the person liable for compensation).

The statute of limitation is interrupted (and a new one starts) each time there is a procedural action (eg, filing and service of a lawsuit, hearing of a case, etc).

Consumers' claims against the producer of a defective product are time-barred three years after the injured party has been informed, or should have been informed, about the loss, the defect and the identity of the producer.

Further, the general limitation period within which a buyer, whether a consumer or not, must exercise his or her rights from a contract for the sale of goods is two years for movable goods and five years for immovable goods.

3.3 Jurisdictional Requirements for a Defendant

Jurisdiction has several meanings under Greek law.

In one sense, jurisdiction denotes the general power of Greek courts to adjudicate cases as opposed to the courts of another country.

The concept of jurisdiction is further distinguished into:

- subject-matter jurisdiction, meaning the power of a certain category of courts (eg, the Small Claims Court, the Single-Member Court of First Instance, etc) to adjudicate over a certain class of cases; and
- territorial jurisdiction of a specific court, meaning the power of that court to adjudicate a particular claim.

A Greek court may adjudicate a case only when it has both subject-matter and territorial jurisdiction.

As a general rule, territorial jurisdiction over civil cases is determined by the domicile of the defendant (regardless of the defendant's nationality). Depending on the nature of the dispute, jurisdiction may be determined by other factors such as, the place of the tortuous act, the location of real property, the nature of a claim as auxiliary, etc. Some of these jurisdictional bases may be exclusive and force the plaintiff to bring the action in the court of a specific district (eg, actions regarding interests in real property must be adjudicated by the court sitting in the district where the real property is located). Other jurisdictional bases allow the plaintiff to choose between the court sitting in the district of the defendant's domicile and courts of other districts (eg, the court of the district where tortuous conduct took place). In disputes arising out of, or in connection with, a contract involving a clause on jurisdiction, Greek courts will review the validity and effect of this clause on jurisdiction.

3.4 Initial Complaint

A lawsuit is initiated by filing a written pleading (complaint) with the court in which the action is brought (physically or electronically) and a copy thereof is served on the defendant. The initial complaint must state, in detail, the facts of the case in a manner that justifies an actionable claim by the plaintiff against the defendant. The complaint need not specify the underlying legal provision of the lawsuit because of the principle jura novit curia (the judge knows the law). However, it is standard practice that the applicable legal provisions are also laid out in detail in a lawsuit. The complaint should specify with clarity and precision the relief sought, whether monetary or non-monetary. As a general rule, the initial pleading may not be amended once filed, except for minor clarifications or amendments which do not alter the factual basis of the dispute. After the filing of the lawsuit, the plaintiff may limit the scope of the relief sought or request the issuance of a declaratory judgment through oral declaration during the hearing and/or through his or her written

submissions, which are filed before the first hearing of the case.

3.5 Rules of Service

Service in Greece is performed through a court bailiff, who is considered a public officer, instructed by the claimant to serve the lawsuit on the defendant. Service on a defendant residing or based abroad is conducted via a court bailiff serving the action on the Public Prosecutor with an official translation.

The date of service is when the claim has been physically delivered to the defendant or a suitable person (eg, a family member). In case of service abroad through the Public Prosecutor channel (in the capacity of transmitting authority), the basic rule is that service should be considered performed when actual delivery has happened (the legal community is divided as to the proper date of service – ie, the date of service to the Public Prosecutor (notional service) or the date of actual service to the defendant abroad (actual service)), when taking into consideration Article 10 of Regulation (EC) No 1393/2007 providing for a certificate of completion upon completion of the formalities of the service. Recent amendments in local procedural law provide for the dismissal of a lawsuit if it is not timely served.

An action must be served to the defendant within 30 days from the date it was lodged and within 60 days if the defendant or any co-defendant(s) reside(s) abroad, or if they are persons of unknown residence. Unless timely served, an action is considered as never lodged.

3.6 Failure to Respond

If a defendant fails to respond to a lawsuit, although the lawsuit has been duly served, he or she shall be treated as absent from the trial and the court shall issue a default judgment against him or her.

3.7 Representative or Collective Actions

Class action proceedings, collective claims and class actions are not generally provided in Greek law.

Exceptionally, consumer protection law provides that consumer associations (constituted as unions) aiming at protecting the rights and interests of consumers are entitled to represent consumers in court and file representative collective actions. This may be effected by a consumer union of at least 500 members, duly registered in the Registry of Consumer Unions for at least one year, which can file an action of any kind for the protection of the general interests of consumers, provided that the illegal behaviour in question infringes the rights of, at least, 30 consumers, without distinguishing between members and non-members.

There are four types of class actions that can be brought by consumers' associations seeking the following:

- prevention and cessation of any supplier behaving unlawfully;
- reparation for moral prejudice – the court, in order to award indemnification, takes into consideration the extent to which public order is harmed due to the unlawful conduct, the size of the defendant supplier's business, its annual turnover, as well as the need for the general and specific prevention (of such behaviour);
- interim measures (injunctions) to secure consumers' interests until an enforceable decision has been granted; and
- recognition of the right of restitution of the damages consumers have suffered due to the supplier's unlawful conduct.

3.8 Requirements for Cost Estimate

There is no requirement to provide clients with a cost estimate at the outset of potential litigation, it is at the discretion of counsel. Ethical rules for lawyers, however, may be construed to include this obligation, especially when extraordinary high costs may be anticipated.

4. Rules on Pre-action Conduct

4.1 Interim Applications/Motions

A claimant is entitled to apply for a pre-action interim remedy prior to the court hearing if there is an urgent need to do so or an imminent danger to the object of the claim that could cause the claimant irreparable damage. The GCCP provides specifically for provisory and conservative measures (injunction measures in general) that constitute interim provisions of judicial protection including:

- the ordering of security for a monetary claim;
- the registration of a prenotation of mortgage;
- the conservatory seizure of movables, immovables, rights in rem thereon, claims, and all assets of the debtor either in his or her hands or in the hands of third parties;
- the placement in judicial escrow (custody) of movables, immovables, a group of objects or of a business;
- the temporary adjudication of certain categories of vital claims;
- the temporary adjudication of a case in any appropriate respect, as a protective measure; and
- an immediate discovery process in a case where means or proof could be at risk of destruction or loss.

Regulation (EU) No 655/2014 provides for the option of issuing a European Account Preservation Order.

4.2 Early Judgment Applications

No early judgment applications are provided for.

4.3 Dispositive Motions

The Greek legal system does not recognise dispositive motions (eg, motions to dismiss or for summary judgment) before a trial.

4.4 Requirements for Interested Parties to join a Lawsuit

Third parties are entitled to join a lawsuit through the mechanisms of intervention, request for joinder and announcement of the dispute.

Intervention is available to a third party having a lawful interest in a case pending between others and may be exercised in two forms:

- main intervention – the third party intervenes at a first instance level requesting protection against all other parties; and
- supportive intervention – the third party intervenes at any stage to support one of the parties.

Request for joinder of third parties may be exercised exclusively in three circumstances and by specific persons:

- in the case of a common interest of many parties which should be adjudicated uniformly, the parties not included in the initial proceedings may be joined by the plaintiff or the defendant;
- in the case of a defendant against whom a real estate lawsuit has been filed, the person on whose behalf the defendant exercises the relevant real estate right may be joined by the defendant; and
- in the case of a plaintiff, defendant or a third party exercising main intervention, they may join the person against whom, in case of loss, they shall have a compensation right.

The court may also order, ex officio, the request for joinder of a third party where it rules that the party should participate in the dispute. Following the request for joinder, the third party becomes a litigant party in the dispute regardless of its actual participation in the proceedings.

A party having a lawful interest may announce a pending dispute to a third party until the court of first instance issues a final judgment on the merits. The announcement of the dispute differs from the request for joinder on the basis of its scope (not limited), aim (only for information purposes without the third party being joined to the proceedings) and consequences. A third party, to whom the dispute is announced, is entitled to participate in the trial by filing an intervention. A third party, who does not participate in a trial although the dispute was announced to him or her before the hearing, is not entitled to file a third-party appeal against the judgment to be issued.

The deadlines for filing of the described third-party motions generally range from 30-90 days.

4.5 Applications for Security for Defendant's Costs

A defendant may apply to the court for security for legal costs, if there is an obvious risk that a claimant shall not honour an adjudication of costs.

4.6 Costs of Interim Applications/Motions

The party filing an application for provisional measures pays its costs in advance. The losing party is usually ordered by the court to pay the costs of the winning party.

4.7 Application/Motion Timeframe

The hearing for a petition for provisional measures shall be usually set within one month or more (depending on the Court's caseload) from the filing of the petition. A temporary order request may be granted within three days of the submission of the petition.

5. Discovery

5.1 Discovery and Civil Cases

As a general rule, discovery (literally in Greek terms "proof") – ie, the burden of proof of an allegation in a claim, counterclaim, objection or counter-objection, lies on the party invoking the respective factual allegation. Therefore, each respective party is obliged to produce both documents and witnesses (in court or through an affidavit) in order to prove its arguments. The initiative on which means of proof maybe produced lies mainly with the parties, though the court may order the production of specific pieces of evidence or an expert opinion to supplement the evidence. The number of witnesses may not exceed five in large cases, while in smaller claims the number is one or two. There is no other mechanism to curb the discovery process and its attendant costs, other than the fact that parties are obliged to produce all their evidence before the moment of their first written submission of pleadings, with very limited possibility to supplement thereafter.

5.2 Discovery and Third Parties

It is possible to obtain discovery from third parties not named as plaintiff/claimant if a party can demonstrate to the court that there is evidence in the possession of that third party which is important for the assessment of the case. If urgent, this request may be submitted through provisional measures proceedings.

5.3 Discovery in This Jurisdiction

There is a general principle that parties are bound by a "duty of truth" which may mean that they are obliged to reveal the whole truth of their case before the court. This obligation is, however, practically mitigated by the adversarial model of litigating, which means that each party shall invoke evidence

where it favours that party's position and will only rebut possible counter-arguments and evidence produced against that party. Also, evidence, once produced by either party, becomes common to both and can be used for or against both. Compelling a party to produce a specific piece of evidence does not form part of the ordinary discovery procedure but should be addressed through a specific motion to be submitted before the court.

5.4 Alternatives to Discovery Mechanisms

In civil cases, evidence is produced at the initiative of the parties. Although litigants have a duty of truthfulness and good faith, there is very limited disclosure (save for specific requests by a litigant to the court for the production of documents) and pretrial discovery in civil cases. Each party has the burden to prove the facts necessary to support their claims or defences and to produce the documentary evidence with their pleadings. The types of evidence are exhaustively listed in the GCCP. Apart from documentary evidence and witness testimonies, evidence may be in the form of expert opinion, examination of the parties and physical inspection of a site or object by the judge.

In new Ordinary Proceedings (see **7.1 Trial Proceedings** for analysis of the two basic procedures) witnesses and experts are not examined orally (with the exception of Special Proceedings, voluntary procedure or interim measures proceedings) during the hearing, instead written testimonies are provided prior to the hearing. Each party has the right to submit up to five testimonies with the pleadings, and three testimonies with the additional pleadings, rebutting the other party's allegations in the pleadings.

A witness statement is sworn by a witness before a notary public or a judge in the Small Claims Courts. The party arranging for the witness statement must serve an advance notice (two working days prior to the date the statement is sworn) on the other party, who has the right to be present during the procedure. Failure of a party to serve notice on the other party renders the witness statement inadmissible.

5.5 Legal Privilege

The concept of legal privilege takes the form of protection of confidentiality and professional confidentiality.

Greek law recognises the concept of attorney-client privilege. The main sources of protection are the Greek Lawyers' Code, regulating the legal profession, the Greek Lawyers' Code of Conduct, the Greek Criminal Code, the Greek Code of Criminal Procedure and the GCCP.

Greek law provides that lawyers must keep confidential all information communicated by their clients and all information obtained when dealing with a case. Hence, lawyers may invoke legal privilege and refuse to testify in criminal and civil proceedings. The parties have the right not to produce documents with privileged information during proceedings. However, exceptions from legal privilege are provided for by Law 4557/2018, implementing European Directive 2015/849/EU, on anti-money laundering, should certain conditions be met.

All lawyers are members of the local Bar Association and subject to the same professional, ethics rules and disciplinary action with respect to legal privilege, notwithstanding their capacity as "in-house" or "independent" lawyers.

5.6 Rules Disallowing Disclosure of a Document

Each litigant has to disclose all supporting documentation with its pleadings and may request the court to order the disclosure of documentation in the possession of the opponent or a third party, unless there is a compelling reason justifying the non-disclosure.

6. Injunctive Relief

6.1 Circumstances of Injunctive Relief

Injunctive relief may be in the form of a provisional freezing of assets; an order to temporarily cease and desist from an action of behaviour; or, exceptionally, an order for specific performance. The court may order the defendant to refrain from a certain behaviour, engage in a certain action (eg, to enter into a contract or to deliver goods), restrict certain transactions, or prohibit a change from the status quo as regards an asset or a contractual relationship.

The party requesting injunctive relief must demonstrate, with a degree of certainty (but not necessarily full proof), that injunctive relief is necessary due to an urgent need for protection or an imminent danger that the applicant's interest, claim or property will be prejudiced or frustrated by the acts or omissions of the respondent.

6.2 Arrangements for Obtaining Urgent Injunctive Relief

The plaintiff files a petition with the court and serves it on the defendant. The judge decides the location and time of the hearing.

In extremely urgent circumstances the plaintiff may request immediate injunctive relief from the court upon filing of the petition. The court has the authority to issue such relief the same day and following a very brief hearing, which may even be conducted ex parte (in the absence of the defendant). This immediate injunctive relief is very limited and remains in force until the hearing date, or the issuance of a judgment on the request for injunctive relief. In recent years, the backlog of cases for provisional measures has multiplied rapidly and courts proceed slowly with scheduling hearing dates and issuing judgments.

6.3 Availability of Injunctive Relief on an Ex Parte Basis

Injunctive relief can be obtained on an ex parte basis in cases of urgency or in order to avoid imminent risk. It is seldom granted ex parte, except in maritime cases.

6.4 Liability for Damages for the Applicant

If an action is dismissed as unfounded, the party who applied for injunctive relief is liable to pay compensation for the damages incurred by the execution of the judgment ordering the injunctive relief or the guarantee paid. This applies only if the applicant for injunctive relief was aware of, or ignored due to gross negligence, the fact that no such right existed.

6.5 Respondent's Worldwide Assets and Injunctive Relief

The European Account Preservation Order is a mechanism for securing cross-border debt recovery in civil and commercial matters, in accordance with EU Regulation 655/2014.

Also, if jurisdiction can be established against a foreign respondent in Greece, injunctive relief can be obtained by local courts. This relief maybe enforced over local or foreign assets, through recognition of the exequatur of the local interim judgment or order abroad.

6.6 Third Parties and Injunctive Relief

Injunctive relief can also be obtained against third parties. This shall be the case when a party requests, as a form of injunctive relief, that a financial institution (third party) seizes those assets of the debtor that are in its hands, or when a party seeks a garnishment.

6.7 Consequences of a Respondent's Non-compliance

Non-compliance with an interim order in disputes of a familial nature is punishable by imprisonment of up to one year or a monetary penalty.

7. Trials and Hearings

7.1 Trial Proceedings

The GCCP provides for the adjudication of private law disputes through the Ordinary Proceedings and Special Proceedings mechanisms.

Under Ordinary Proceedings, which have been recently amended to introduce a fast-track system, all evidence (including witness statements) is provided in advance of the hearing and in writing. A hearing is scheduled after written pleadings and additional/counter pleadings have been filed and there is no oral advocacy or examination of witnesses. Once they have timely filed their written pleadings and evidence, the parties are considered properly present. The Court will consider the case file and, if deemed absolutely necessary, the judge may issue an interim order for a subsequent hearing to examine witnesses.

In Special Proceedings (which include matrimonial disputes, property disputes arising out of lease agreements, labour disputes, disputes over the payment of fees and credit instruments, disputes over orders for payment, and disputes on the surrender of the use of the leasehold), other than the filing and servicing of the action, all procedures take place, in principle, during the hearing where the parties submit their pleadings presenting the appropriate evidence.

7.2 Case Management Hearings

Greek procedural laws do not provide for case management hearings in any respect.

7.3 Jury Trials in Civil Cases

Jury trials are not available in civil cases, which are tried and decided exclusively by judges.

7.4 Rules That Govern Admission of Evidence

Under the new Ordinary Proceedings, all evidence (including witness statements) is provided in advance of the hearing in writing. In principle, the court does not perform oral examination of witnesses.

The court will consider the case file and, if deemed absolutely necessary, the judge may issue an interim order for a subsequent hearing to examine witnesses.

Each party has the burden to prove the facts supporting its own claim or defence. Only facts that have a material bearing on the outcome of the case may be the subject-matter of evidence.

Admissibility of evidence at trial depends on the type of evidence produced by each party.

Documentary evidence is admissible provided the document has been issued pursuant to the rules governing the specific class of documents (eg, the document was issued by the appropriate authority), satisfies all prerequisites for its validity (eg, it bears the necessary signature, seal etc), is legible, is not obliterated or mutilated, has no marks, and its substantive parts have not been altered in any other manner. Documents lacking any of the foregoing requirements will be inadmissible.

Only genuine documents are considered as admissible evidence. Public documents issued by local or foreign authorities (and bearing the necessary certifications) are considered genuine and therefore constitute full evidence, unless a party objects otherwise.

A private document will be admissible in evidence only if signed by the person who has issued it and the genuineness of that signature is not contested by the other party.

The court assesses all types of evidence freely and determines the truthfulness of each party's allegations. Facts which are known to be true beyond any doubt are taken into consideration by the court without proof. The same rule applies to facts which are already known to the court from a previous case tried by the same court, as well as to facts which are common knowledge. Evidence submitted by one party is also taken into account for the proof of the arguments of the opposing party.

7.5 Expert Testimony

Expert testimony is explicitly prescribed as a form of evidence. The court may appoint one or more experts for the clarification and better comprehension of issues, where expert scientific or technical knowledge is required. The court is obliged to order expert evidence provided that this is requested by a party and the court considers that, for the matter at stake, highly specialised knowledge is required. The expert responsible for the required testimony will be ordered by the court on the basis of a particular experts list, which is available in every civil court. On the appointment of an expert by the court, the parties can appoint other experts as their own technical advisors to assist them. The parties' technical advisors attend the same procedures as the experts appointed by the court and can state their own opinion either orally, at the hearing, or in an expert report.

The parties can also provide expert reports that refer to a particular matter and have been drafted at their own request, even when the court has not ordered expert evidence. Such reports, however, are not binding on the court.

7.6 Extent to Which Hearings are Open to the Public

Court hearings are, in principle, open to the public but deliberations for the issuance of the judgment are made in secret. The judge, who is in charge for the hearing, may determine the number of persons present in the court room and may order the exclusion of minors or persons behaving inappropriately. Court hearings are open to the public, unless an open hearing might insult bonos mores or public policy.

Transcripts of hearings are only available to parties of the dispute, their attorneys and to third parties provided that they have a lawful interest.

7.7 Level of Intervention by a Judge

In Ordinary Proceedings the procedure is, in principle, written and based on the filing of pleadings and evidentiary material, without oral advocacy or examination of witnesses during the hearing. Therefore, the judge's level of intervention is rather low compared to Special Proceedings where the procedure is mainly conducted orally (oral advocacy and examination of witnesses).

Judicial intervention is also at a minimum in administrative law disputes. The administrative litigation procedure is essentially written, notably at the inquiry level. During the debates, witnesses may be heard before the administrative courts of first instance, when they judge recourse to full jurisdiction.

The judgments of civil and administrative courts are not issued at the hearing date, but at a later stage when the judgment is issued and published. In criminal cases the court issues its judgment immediately.

7.8 General Timeframes for Proceedings

In Ordinary Proceedings, after the filing of the lawsuit, the parties have 100 days to submit written pleadings and supporting documentation or 130 days if the defendant is a foreign resident or of unknown residence. Then the parties have a 15-day deadline to submit their rebuttals to the opposing party's arguments contained in the written pleadings. The court will then set a hearing date and the final decision shall be issued within eight months from hearing, the latter deadline depending on the court's caseload.

In Special Proceedings the court sets a hearing date upon the filing of an action. Besides the filing and servicing of action, all other procedures take place during the hearing where the parties submit their pleadings and evidentiary material. Within three working days after the hearing, the parties may submit their rebuttals.

8. Settlement

8.1 Court Approval

Civil claims are generally freely disposable and therefore subject to settlement.

Court settlement requires a statement before the court, the judge handling the case, or a notary. The attempt to reach a settlement can begin after the initiation of the court proceedings, at any stage of the case, and until the issuance of a non-appealable court decision. If the attempt to reach a settlement fails, the court continues with the trial. If a settlement is reached, a note is made in the court transcript and the trial is terminated.

If parties reach a settlement other than the court settlement, the settlement agreement is deemed an "out-of-court" settlement requiring the issuance of a judgment so as to be vested with an enforceable title.

8.2 Settlement of Lawsuits and Confidentiality
The terms of the settlement of a dispute can remain confidential upon agreement of the parties.

8.3 Enforcement of Settlement Agreements
As per court settlement, court transcripts – including the settlement of a case, although not court decisions – constitute a judicial document that can be enforced.

As per out-of-court settlement, if the parties have an interest in vesting the settlement with exequatur, so as to later enforce it, they can submit the settlement agreement for court approval.

8.4 Setting Aside Settlement Agreements
A settlement agreement may be set aside if the facts, on the basis of which the settlement was reached, are not true and the dispute or the uncertainty would not have been created, had the parties been aware of the incorrect basis of the settlement.

9. Damages and Judgment

9.1 Awards Available to Successful Litigant
There are three forms of award available to a successful litigant: a declaratory judgment of a right or obligation of a party, a judgment ordering a party to perform a specific act, and a formative judgment modifying an existing legal relationship and creating a new legal status.

Under the provisions of the recently enacted Law 4640/2019, a state fee is required for all lawsuits for disputes falling under the jurisdiction of Multi-Member Courts. Article 42 of this Law is also applicable to those pending lawsuits for which the first court hearing is set after 1 January 2020. The above law has received strong criticism from the legal community since it also reinstates a state fee for lawsuits that only seek declaratory relief.

9.2 Rules Regarding Damages
Courts may award damages up to the amount requested and proved by the plaintiff. The courts have no authority to award any amount beyond that threshold or any special damages. Courts may award pecuniary relief in the form of compensation for damages (ie, direct damages including loss of profit) and moral restitution. Only in certain circumstances may the courts adjudicate monetary compensation for pain and suffering to a limited group of people (ie, the close relatives of the victim of wrongful death).

The Greek legal system does not recognise punitive damages and, if damages of such nature have been agreed, the court mitigates them to the extent fair and reasonable.

9.3 Pre and Post-Judgment Interest
All judgments awarding monetary relief bear interest. The debtor has the right to ask for default interest at the level set by law or contract.

The debtor, even if not in default, is liable to pay legal interest accruing from the date of service of the lawsuit or the date of the payment order for the debt that is due and payable. The percentage of litigation interest is 2% higher than the default interest rate. The latter is fixed periodically by statute.

As of the publication date of a final judgment awarding damages with interest, the percentage of litigation interest is 3% higher than the default interest rate.

9.4 Enforcement Mechanisms of a Domestic Judgment
An enforceable title is required for the enforcement of a domestic judgment.

The enforcement is exercised by an individual entitled to do so, who, on the official copy (*apografo*), gives the corresponding order to a bailiff and specifies the way in which and, if possible, the items on which the order will be enforced. In cases of seizure, a notary, where the seizure is to be effected, is designated.

Expedition of enforcement proceedings has been introduced via the simplification of execution proceedings, the consolidation of the judicial review procedure and the introduction of electronic auctions (Law 4335/2015, Law 4472/2017 and Law 4512/2018).

Special laws (eg, the Code of Collecting Public Revenue – Legislative Decree 356/1974, applicable in cases where the Greek state is the creditor/claimant; and the Legislative Decree of 17 July 1923, applicable when the creditor/claimant is either a bank operating in Greece or a corporation (*Greek société anonyme* or foreign company) that has acquired a special licence from the Greek state) mandate specific provisions for the enforcement of domestic judgments taking into account the nature and specific features of the creditor.

9.5 Enforcement of a Judgment from a Foreign Country
The procedures for recognition and enforcement of foreign judgments in Greece depend on where such judgments were issued, and may be effected under:

- EU laws and regulations, where the judgment has been issued from another member state;
- international (multilateral or bilateral) treaties between Greece and non-EU countries; or
- the GCCP governing the recognition and enforcement of foreign judgments in Greece.

Where EU regulations or international treaties are applicable, they supersede the GCCP.

A foreign judgment can be enforced in Greece after it has been declared enforceable by a judgment of the Single-Member Court of First Instance. Its territorial jurisdiction will derive from the domicile of the debtor, or, if there is no domicile, the residence of the debtor, or, if there is no residence, the Athens Single-Member Court of First Instance will have jurisdiction. A foreign judgment will be declared enforceable provided that it is enforceable pursuant to the law of the country where it was issued and it is not contrary to the principles of bonos mores or public order in Greece. In addition, a Greek court will refuse to declare a foreign judgment enforceable where:

- the foreign judgment was issued by a court that lacked jurisdiction;
- the defeated party was not afforded a fair trial or was denied the right to participate in the court proceedings, unless that deprivation was effected pursuant to a legal provision applicable to the citizens of the country in which the foreign court sits as well as foreigners in that country;
- the foreign decision conflicts with a decision of the Greek courts for the same case and is res judicata for the parties involved in the proceedings; or
- the foreign judgment violates the principles of bonos mores and the public order in Greece.

10. Appeal

10.1 Levels of Appeal or Review to a Litigation

First instance judgments are subject to appeal before appellate courts.

Small Claims Court judgments are contested in the Single-Member Court of First Instance. Single-Member Court of First Instance judgments are contested in the Single-Member Court of Appeals and Multi-member Court of First Instance judgments are contested in the Three-Members Court of Appeals. Judgments issued by the Small Claims Courts for minor disputes (eg, claims and rights on movable property with a value not exceeding EUR5,000) are irrevocable.

An appeal in cassation is possible before the Supreme Court, which examines only the legal correctness of judgments issued by the Greek courts of first and second instance.

10.2 Rules Concerning Appeals of Judgments

Parties may appeal a judgment when they are wholly or partially defeated in the first instance and the judgment erred in fact or law. The party who won the first-degree trial may file for an appeal only if it has a lawful interest.

The decisions are appealable only to the extent that they are either final or refer the dispute to the competent court. The grounds of an appeal can be both/either procedural and/or substantive.

Enforcement of a first instance judgment is suspended during the time period available for the filing of the appeal, unless the first instance judgment has been declared as temporarily enforceable against the defeated party.

10.3 Procedure for Taking an Appeal

An appeal should be filed within 30 days from the service of judgment to the other party if the party resides in Greece or 60 days if the party resides abroad or is of unknown residence. If judgment is not served, the appeal can be filed within a two-year period from the date the judgment was published. Once an appeal is filed and a hearing is scheduled, the opponent has the opportunity to file (and serve) a counter-appeal, at the latest, 30 days before the hearing date of the initial appeal. Also, the party that filed an appeal may file (and serve) additional appeal grounds, at the latest, 30 days before the hearing date of the appeal.

10.4 Issues Considered by the Appeal Court at an Appeal

The subject matter of an appeal involves errors of the first instance courts on questions of law and/or fact. An appeal in cassation to Areios Pagos may be taken only for questions of law.

A re-hearing of the first instance judgment is only mandatory if one of parties was not present at the hearing before the court of first instance.

The appellate court shall only examine the grounds (their admissibility and soundness) that are presented in the appeal and not the first instance judgment as a whole.

New points, not explored at first instance, cannot be raised at an appeal.

10.5 Court-Imposed Conditions on Granting an Appeal

No conditions can be imposed by the court on the granting of an appeal.

10.6 Powers of the Appellate Court After an Appeal Hearing

The appellate court shall examine the admissibility of the appeal, assess its grounds, and – if it finds them admissible and sound – shall retain the case and decide on its merits.

11. Costs

11.1 Responsibility for Paying the Costs of Litigation

As per the established courts practice, if there is one defendant and he or she loses the case, the court is likely to order the latter to pay attorneys' fees (amounting to approximately 2% of the amount claimed in the case), plus any other court expenses, such as stamp duty, judicial stamp (amounting to approximately 1.1% of the amount claimed), translation costs, court bailiff costs and/or other expenses paid by the claimant for the preparation of the claim and/or the production of exhibits. If there are multiple defendants and they lose the case, the court may either order them to pay an equal share of the claimant's aforementioned attorney and court fees or allocate them to the defendants proportionally, according to their liability. Furthermore, the court may set off the attorney and court expenses between the parties, if the interpretation of the rules applied was deemed to be particularly difficult.

11.2 Factors Considered When Awarding Costs

The unsuccessful party is required to pay both court and legal costs. Court expenses are "only judicial and extrajudicial expenses that were necessary for the trial" and in particular are: stamp duties; judicial revenue stamp duty; attorneys' minimum fees set by the Greek Lawyers' Code; witnesses' and experts' expenses; and the successful party's travelling expenses incurred by attending the hearing. Expenses incurred through the party's own fault or due to excessive prudence are not recoverable.

It lies in the court's discretion to award expenses in whole or in part and to order the payment of these by the defeated party. It should be noted that Greek courts award costs that are usually substantially lower than those actually incurred.

11.3 Interest Awarded on Costs

Further to the issuance of the judgment and after the commencement of the enforcement procedure, interest applies to the total amount awarded, including costs.

12. Alternative Dispute Resolution

12.1 Views of Alternative Dispute Resolution Within the Country

A stable and increasing trend in the amount of domestic arbitration in Greece has been noticeable in recent years, demonstrating a preference on the part of sophisticated commercial parties for resolution of their disputes by alternative adjudicating bodies, rather than courts. Mediation is not yet popular but the recent enactment of Law 4640/2019, which regulates the mediation procedure, aims to establish a mediation attempt as a prerequisite to resorting to the courts.

12.2 ADR Within the Legal System

Law 4512/2018 incorporated Directive 2008/52/EC for mandatory mediation in civil and commercial matters aiming to relieve the courts of the overwhelming majority of cases. However, the enactment of Law 4512/2018, instead of leading to the stimulation of the trend for alternative methods of dispute resolution and the promotion of the existing culture for arbitration, generated a heated debate among local practitioners resulting in the suspension of its provisions pertaining to mandatory mediation, which were eventually abolished by means of Article 33 of the newly enacted Law 4640/2019.

However, due to a recent legislative development namely the enactment of Law 4640/2019 on Mediation in Civil and Commercial Disputes and further harmonisation of the Greek legislation with the provisions of Directive 2008/52/EC aims at expediting legal proceedings in Greece and offering a fast-track enforceable title to parties successfully participating in the mediation procedure.

The following disputes shall have to be obligatorily referred to an initial session of mediation prior to their referral to the competent court:

- certain family law disputes;
- all civil and commercial disputes which come under the competency of all Single-Member Courts of Greece referring to claims over EUR 30.000;
- all civil and commercial disputes which come under the competency of all Multi-Member Courts of Greece; and
- all disputes arising from agreements including an explicit mediation clause.

In cases of non-compliance with the above mandatory initial mediation session, the hearing of the respective claims shall be rejected as inadmissible by the competent courts.

All disputes in which the Greek state or any public entity/organisation is one of the parties, are excluded from the above obligations.

In accordance with the provisions of the new law, lawyers are obliged to inform their clients, in writing, about the mediation option and about the fact that the dispute falls under the mandatory mediation provisions. The document entailing the above is required to be signed by the lawyer and the client and filed before the competent court. If this does not occur, the lawsuit shall be considered as inadmissible. This obligation to inform is effective as of 30 November 2019 and captures both voluntary and mandatory mediation, regardless of the fact that mandatory mediation shall be effective at a later stage.

The mandatory introduction of the mediation process shall take effect on family law disputes for lawsuits filed after 15

January 2020 and on cases subject to the competency of the Single-Member Courts (claims over EUR30,000) and Multi-Member Courts for lawsuits filed after 15 March 2020.

12.3 ADR Institutions

There are numerous institutions in Greece offering and promoting ADR such as, the Athens Chamber of Commerce and Industry, the Hellenic Centre of Mediation and Arbitration, the Regulatory Authority for Energy (RAE), the Hellenic Chamber of Shipping, the Piraeus Association for Maritime Arbitration, the Technical Chamber of Greece, the Hellenic Consumer Ombudsman, and the Hellenic Ombudsman for Banking – Investment Services.

EODID Athens Mediation & Arbitration Organisation, is a newly incorporated organisation (in 2016) in Greece, founded to provide mediation and arbitration services in Greece and abroad.

In the framework of the new mediation regime, a committee has been established (Central Mediation Committee) to, among other things, monitor mediation procedures and provide registration for mediators and for mediator certification entities.

13. Arbitration

13.1 Laws Regarding the Conduct of Arbitration

Parties involved in international commercial arbitration proceedings in Greece can apply Law 2735/1999, incorporating, with minor amendments, the UN Commission on International Trade (UNCITRAL) Model Law as in force at the time of its adoption. This secures consistency with international arbitration standards and makes Greece an attractive arbitration forum for international arbitration disputes.

The Greek legal regime on arbitration is dualistic. Law 2735/1999 governs international commercial arbitration in Greece. Domestic arbitrations or arbitrations of a non-commercial nature (where Law 2735/1999 is not applicable), are regulated by the provisions of the Greek Code of Civil Procedure (Articles 687-903). The GCCP may also apply directly or indirectly to international commercial arbitration if an issue is not specifically governed by Law 2735/1999 and vice versa.

Arbitration is considered to be "international" if:

- the parties' seats are in different countries when they enter into the arbitration agreement;
- the location of the arbitration, or the site where the contractual obligations should be fulfilled, is in a different country to that in which the parties have their registered seat; or
- the parties have expressly agreed that the arbitration agreement's subject matter is connected to several countries.

There is no universally accepted definition as to the commercial aspect of an international commercial arbitration. As such, arbitration is mainly considered to be commercial when the dispute in question involves a transactional or economic matter.

Greece signed and ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards pursuant to Legislative Decree No 4220/1961. The convention entered into force in Greece on 14 October 1962.

Greece has made two reservations under Article 1(3) of the New York Convention, namely:

- the Convention applies exclusively with respect to arbitral awards issued in another contracting state; and
- it applies only to awards issued on disputes of a commercial nature.

13.2 Subject Matters not Referred to Arbitration

As per the GCCP on domestic arbitration, any private legal dispute, the subject matter of which can be freely disposed of by the parties, is in principal arbitrable. Any type of dispute failing to fulfil these prerequisites is not arbitrable.

Non-arbitrable include disputes include those:

- relating to the personal status of individuals (eg, marital disputes and disputes between parents and children);
- that fall under the exclusive jurisdiction of other adjudication bodies (eg, cases concerning the violation of competition rules will be heard by the Competition Commission); and
- that arise:
  - (a) between employers and employees;
  - (b) from collective bargaining agreements;
  - (c) between professionals and small and medium-sized entities or between these entities and their clients regarding work performed or goods manufactured; and
  - (d) between social security institutions and the insured, unless these disputes are of a commercial nature (to be determined on a case-by-case basis).

Disputes concerning IP, antitrust, competition, securities and intracompany issues to the extent they relate to matters that cannot be freely disposed of by the parties (eg, registering a trademark or patent) are not arbitrable, but are in other respects (eg, claims for compensation).

There are also special statutory provisions, especially in investment incentive laws, that allow matters, which other-

wise cannot be freely disposed of by the parties, to be submitted to arbitration (such as tax disputes between the state and the investor).

Under Law 2735/1999, the above rule also applies to international commercial arbitration.

13.3 Circumstances to Challenge an Arbitral Award

In international commercial arbitration, challenge of an arbitration award is permitted in exceptional circumstances. A petition seeking to set aside an award must be filed with the court of appeal of the place of arbitration within three months from the date on which the arbitral award was received by the party filing the claim.

An arbitral award is not subject to appeal. However, in domestic arbitration cases the parties can foresee, in the arbitration agreement, their right to challenge the arbitral award before a different arbitral tribunal, provided that they determine the conditions, time limits and procedure applicable to the submission and examination of such a challenge. Moreover, the GCCP also provides for the declaration of the non-existence of an arbitral award if: (i) there is no arbitration agreement at all, (ii) the dispute was non-arbitrable, or (iii) the award was issued in an arbitration involving a non-existing individual or legal entity.

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13.4 Procedure for Enforcing Domestic and Foreign Arbitration

An award will be considered final, binding and enforceable; and will give rise to res judicata on its filing in the Single-Member Court of First Instance (as per the GCCP) and publication (as per Law 2735/1999). Enforcement of the award in cases of failure to comply will be conducted on the basis of the GCCP's specific provisions that provide for compulsory enforcement.

An arbitral award issued in Greece gives rise to res judicata and is enforceable in Greece as of the date of the award. Res judicata is determined in accordance with the provisions of the GCCP and concerns the merits of the dispute and the procedural issues that were finally adjudicated by the tribunal. Res judicata extends over the parties to the dispute and their successors. The only formality that must be observed for the enforcement of an arbitral award is the filing of the award with the secretariat of the Single-Member Court of First Instance in the place where the arbitration was held.