# Legal 500
# Country Comparative Guides 2024

## Greece
## International Arbitration

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This country-specific Q&A provides an overview of international arbitration laws and regulations applicable in Greece.

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# Greece: International Arbitration

## 1. What legislation applies to arbitration in your country? Are there any mandatory laws?

Greek law opts for a dual system distinguishing between domestic and international commercial arbitration. Domestic arbitral proceedings are governed exclusively by the provisions of the Seventh Book of the Greek Code of Civil Procedure (GrCCP), Articles 867 – 903.

International arbitral proceedings having their seat in Greece were until recently governed by Law 2735/1999, by which Greece basically adopted the UNCITRAL Model Law on International Commercial Arbitration (1985). Law 2735/1999 was recently reformed by Law 5016/2023, which largely repeats the provisions of the previous law, introducing however major innovations by incorporating some of the 2006 amendments of the UNCITRAL Model Law. In general, the application of the provisions of the Seventh Book of GrCCP to international arbitral proceedings on an ancillary basis is not precluded as a matter of principle.

Law 5016/2023 does not contain mandatory provisions other than those already included in the UNCITRAL Model law. The prohibition of delocalization and mandatory procedural fairness norms are the most important. The GrCCP contains a number of mandatory provisions which, among others, (a) safeguard procedural fairness in light of the principle of procedural autonomy, (b) control the arbitrability question, (c) control the form of the arbitration agreement, (d) control the question of the impartiality of arbitrators, (e) control the form of the arbitral award, (f) render invalid any ex ante waiver of the right to ask that the arbitral award be set aside, (g) prohibit arbitrators from granting interim or provisional relief. In addition to these, the GrCCP contains also some parochial mandatory norms such as limitations to the arbitrators' fees.

## 2. Is your country a signatory to the New York Convention? Are there any reservations to the general obligations of the Convention?

Greece is a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Greece has acceded to the New York Convention by virtue of Legislative Decree (LD) 4220/1961 (entry into force on October 14, 1962). Under Article 28 of the Greek Constitution, the provisions of the New York Convention prevail over all conflicting provisions of Greek law.

Greece has made both the reciprocity as well as the commercial reservation under Article I (3) of the New York Convention. Regarding both reservations however, it is noted that under Article 45 L. 5016/2023, the provisions of the national Legislative Decree transposing the New York Convention into Greek law, are generally applicable to all foreign arbitral awards. Hence, they are applicable also to awards made in a country that has not ratified the New York Convention or to an arbitral award rendered in a non-commercial dispute.

## 3. What other arbitration-related treaties and conventions is your country a party to?

Greece has ratified the 1923 Geneva Protocol on Arbitration Clauses as well as the 1927 Geneva Convention on the Execution of Foreign Arbitral Awards. However, under Article 7 (II) of the New York Convention, their effect has already ceased between Contracting States within the scope application of the New York Convention. Hence, their practical utility is limited only to States bound by said Conventions but not by the New York Convention. Greece has also ratified the 1965 ICSID Convention on the Settlement of Investment Disputes between States and Nationals of Other States ("ICSID Convention"). Moreover, Greece is a party to several arbitration-related bilateral conventions, pertaining mainly to the recognition and enforcement of arbitral awards. Given that the vast majority of said conventions exist between Greece and other States that are also signatories to the New York Convention, Article 7 (I) applies. Hence, bilateral conventions preceding the New York Convention (its entry into force) are not affected, whereas bilateral conventions concluded afterwards may apply based on the more-favorable-right provision of said article.

## 4. Is the law governing international arbitration in your country based on the UNCITRAL Model Law? Are there significant differences between the two?

Greece incorporated into the Greek legal system the UNCITRAL Model Law by virtue of Law 2735/1999, which

 

included a few deviations from the Model Law. Law 5016/2023 fundamentally revisited the prior Law and incorporated some of the amendments of the 2006 UNCITRAL Model Law. Some of the deviations from Model Law include: (a) Article 3 para. 2(c) which provides that an arbitration will be regarded as "international" if "the parties have expressly agreed that this Act shall apply". This resolves a debate, which arose under the prior Law and the Model Law, whether an objective connecting factor with another jurisdiction is required for "internationality". The new Law provides that the parties' subjective intent suffices; (b) Article 21 provides that in case a replacement arbitrator is appointed, absent an agreement by the parties, the arbitral tribunal may by virtue of a unanimous decision decide that arbitral proceedings will resume from the point of interruption; (c) Article 43 para. 2(aa), now provides that awards dismissing claims on jurisdictional grounds (i.e., negative jurisdictional rulings) may also be challenged; (d) Article 43 paras. 2 and 3 provide for a new ground for setting aside an arbitral award, unknown to Model Law. More specifically, an award may be set aside when it emerges that it was procured through fraudulent or forged evidence, bribery, or corruption. The time limit for bringing forward said ground is three years from the issuance of the award; (e) Article 43 para. 3 provides that the time limit for setting aside an arbitral award does not commence before the award is formally served upon the parties.

Thus, Law 5016/2023 also introduced provisions that go beyond the 2006 version of the UNCITRAL Model Law. Provisions unknown to Model Law pertain to the arbitrability, the law governing the substantive validity of the arbitration agreement, multiparty arbitrations and the mechanisms of joinder and consolidation of separate arbitration proceedings, document production, the confidentiality of the arbitral proceedings, the liability of arbitrators and the duties and obligations of arbitral secretaries.

## 5. Are there any impending plans to reform the arbitration laws in your country?

Both L. 2735/1999 governing international commercial arbitrations as well as the Seventh Book of the Greek Code of Civil Procedure (GrCCP) governing domestic arbitration were recently reformed. The former by virtue of L. 5016/2023, and the latter by virtue of L. 4842/2021, which however, introduced only minor reforms.

## 6. What arbitral institutions (if any) exist in your country? When were their rules last amended? Are any amendments being considered?

Arbitral institutions established in Greece are in principle: (a) The Athens Chamber of Commerce and Industry; (b) The Hellenic Chamber of Shipping; (c) The Piraeus Association for Maritime Arbitration; (d) The Regulatory Authority for Energy. Reference is to be made also to the Technical Chamber of Greece. However, pursuant to well established case law the scope of its authority is limited only to stricto sensu technical disputes. Furthermore, institutional arbitrations are administered by the Athens Bar Association and Thessaloniki Bar Association. Said institutional arbitrations are provided for under Article 902 GrCCP. This rule entails a delegation of legislative authority which allows for Presidential Decrees which establish the so-called permanent Arbitration Institutions within the Chambers and delineate their Rules. However, said delegation is fairly limited. Article 902 GrCCP provides that Articles 867 – 900 GrCC still apply and stipulates only certain matters which may be regulated differently by virtue of said P.Ds. In light of this arrangement, the respective Arbitral Institutions and their Rules are not to be seen as autonomous, in the sense that Chambers are not entirely free to tailor institutional arbitration proceedings the way they see fit in order to meet the evolving needs of their members and to adjust to the ever-changing business environment. The Piraeus Association for Maritime Arbitration on the contrary, being a private non-profit legal entity, in order to promote the resolution of maritime disputes by arbitration in Piraeus has put in place an autonomous set of rules which is described by its drafters as being "in accordance with international standards and the UNCITRAL Model Law for International Commercial Arbitration as adopted by Greece". Arbitrations, both domestic and international are also administered by Athens Mediation and Arbitration Organization "EODID", an alternative dispute resolution (ADR) services provider for the resolution of any dispute eligible for mediation and/or arbitration. EODID provides its own set of rules for mediation and arbitration, which follow the best practices of the leading international arbitration centers, including fast-track procedure for small claims and an early neutral evaluation process.

No amendments to other institutional arbitration rules are currently considered.

Lastly, Article 46 para. 1 L. 5016/2023 establishes a framework for the founding, operation, and supervision of arbitral institutions, to be further detailed by administrative acts of the Ministry of Justice. In parallel, Article 46 para. 2 confirms that arbitral institutions

 

established in other jurisdictions may provide their services in Greece (including by opening branches, etc.), thereby clarifying the position and allowing for greater transparency.

## 7. Is there a specialist arbitration court in your country?

No, there is not.

## 8. What are the validity requirements for an arbitration agreement under the laws of your country?

As regards international commercial arbitral proceedings having their seat in Greece, an arbitration agreement (a) may be in the form of an arbitration clause in a specific contract or in the form of a separate agreement; (b) shall be recorded in a document the content of which has been agreed by the parties expressly or tacitly (Article 10 L. 5016/2023). L. 5016/2023 departs from the writing form requirement of the previous Law, as it only requires that the arbitration agreement is "recorded" in a document. Thus, the written form only serves evidentiary purposes. What is more, Article 10 para. 2 spells out a broad definition of what qualifies as a document, including exchange of letters, telegrams, and electronic recordings. Pursuant to para. 4 of the same Article, the conclusion of an arbitration agreement is also evidenced by the parties' unconditional participation in the arbitral proceedings. Therefore, following the global trend and contemporary practice, L. 5016/2023 seeks to ease the written form requirement and the consequences of its absence.

In relation to domestic arbitration, Article 869 para. 1 GrCCP adopts both the written form requirement as well as the exchange of documents requirement. It should be noted that said provision explicitly demands with regard to the exchange of documents (letters, facsimiles etc.) that each of them be signed by the parties. The relevant provision of former L. 2735/1999, the above provision of L. 5016/2023, and the respective provision of Model Law departing from the written form requirement are unknown to the GrCCP. It is provided though, in said article of GrCCP, that in case the parties participate in the proceedings without making any reservation or objection the lack of written form requirement is remedied.

## 9. Are arbitration clauses considered separable from the main contract?

Yes. The separability doctrine is well established both in case law as well as in legal literature. It is also provided for in Article 23 para. 1 L. 5016/2023 which incorporates verbatim the respective provision of the Model Law. Hence, the invalidity, illegality or termination of the underlying contract does not adversely affect the arbitration clause and vice versa. Furthermore, since the arbitration agreement is considered a separate agreement, it may be governed by a law different than that of the underlying contract.

That said, case law and legal literature accept that the arbitration agreement is also transferred *ipso jure* as a procedural collateral in cases of assignment of rights, assumption of debt, etc. This position is premised upon certain provisions of the Greek Civil Code and in general, is not considered inconsistent with the notion of separability.

## 10. Do the courts of your country apply a validation principle under which an arbitration agreement should be considered valid and enforceable if it would be so considered under at least one of the national laws potentially applicable to it?

The validation principle is enshrined in Article 11 para. 1 of L. 5016/2023 providing that "*1. An arbitration agreement shall be valid if it is valid in accordance with the law (a) to which the parties have subjected it or (b) of the place of arbitration or (c) governing the substantive agreement of the parties*". L. 5016/2023 clearly adopts an *in favorem validitatis* approach. The provision is unknown to Model Law. It follows the Swiss and Dutch approaches and applies notably to issues of initial validity and entry into force, termination, and scope (temporal, personal, etc.). On the same premise, Article 11 para. 2 provides that bankruptcy or insolvency proceedings do not affect the arbitration agreement, unless otherwise provided by law. National courts are expected to apply said validation principle as it is now explicitly provided in law.

## 11. Is there anything particular to note in your jurisdiction with regard to multi-party or multi-contract arbitration?

5016/2023 introduced Articles 16 and 24, under which the regime of multiparty arbitration is comprehensively regulated.

Article 24 confirms the arbitrators' power to accept requests for joinder and allow third parties, bound by the arbitration agreement to join the proceedings before it as

 

a claimant, respondent, as well as "third-party intervener with a legal interest in the resolution of the dispute". This broad concept seeks to capture various different types of interventions. Furthermore, in order to have clarity from the outset and deal with the tribunal constitution accordingly, the same provision encourages the respondent to formulate claims against parties not appearing as claimants (but bound by the arbitration agreement) through its initial response to the notice of arbitration. It then goes further to expressly afford the new parties the same rights and obligations as to the original parties.

Para. 2 of Article 24 allows for parallel proceedings to be consolidated, even if they are pending before different arbitrators. In such cases, the arbitrators have the power to terminate the arbitral proceedings that have been successfully consolidated. Before deciding on joinder and/or consolidation requests, the arbitral tribunal must consider (i) the views of all interested parties and (ii) all relevant circumstances, (e.g. the stage of the proceedings, the expediency of a single adjudication of all disputes). Article 24 in its entirety is subject to contrary agreement by the parties. In the context of procedural autonomy, the parties may agree to the application of institutional rules under which the issues at hand are to be decided (e.g. the relevant provisions of ICC Rules 2021).

Article 16 resolves the issue of the appointment of an arbitrator if the tribunal consists of more than one arbitrator and the arbitration involves more parties either as claimants or respondents, by requiring a joint appointment of a common arbitrator by multiple claimants or multiple respondents. Upon failure by parties to make a joint nomination in a timely manner, the competent national court, upon a party's request, may either make such an appointment or empanel the entire tribunal. It is noted that the court's decision is not subject to any legal remedy.

On the contrary, there are no provisions for multi-party or multi-contract arbitrations in GrCCP for domestic arbitration.

## 12. In what instances can third parties or non-signatories be bound by an arbitration agreement? Are there any recent court decisions on these issues?

By virtue of the principle informed by the consent maxim, only signatories are bound by the arbitration agreement. However, an arbitration agreement is binding upon third parties in cases of assignment, assumption of debt, succession, merger or other types of corporate transformations, and subrogated claims. Also, in exceptional cases, the arbitration agreement may be deemed binding upon non-signatories under piercing of the corporate veil or the group of companies' doctrine.

## 13. Are any types of dispute considered non-arbitrable? Has there been any evolution in this regard in recent years?

5016/2023 takes a clear policy stand in favour of the widest arbitrability providing in Article 3 para. 4 that *"Any dispute may be submitted to arbitration unless prohibited by law"*. Hence, any dispute may be arbitrated, and it will be incumbent on a party resisting submission to arbitration to identify a statutory provision amounting to a prohibition. Practice and scholarship will doubtless contribute to defining what such prohibition may consist in.

As regards domestic arbitration, the arbitrability question is controlled by Article 867 GrCCP, providing that any private law dispute may be referred to arbitration as long as the parties are vested under law with the power to freely dispose of its subject matter. Certain classes of disputes which meet said prerequisite are nevertheless expressly excluded on the basis of other considerations, such as labor disputes, the exclusion of which is premised upon the perceived necessity to protect the interests of employees. Said doctrine is well-established in legal literature and case law.

## 14. Are there any recent court decisions in your country concerning the choice of law applicable to an arbitration agreement where no such law has been specified by the Parties?

No, however, according to the latest published Supreme Court decision on the matter (SC nr. 1219/2014) and the prevailing view in legal doctrine, Articles V(I)(a) of the 1958 NY Convention and 34§2 (a) (aa) of former Law (already Article 43§2 (a) (aa) of L. 5016/2023), introduce a general conflict of law rule, under which in the absence of parties' agreement either explicit or implied on the choice of law governing the substantive validity of the arbitration agreement, the latter will be governed by the law of the place that the arbitral award was made or it will be made by virtue of parties' agreement.

## 15. How is the law applicable to the substance

 

## determined? Is there a specific set of choice of law rules in your country?

In international commercial arbitral proceedings having their seat in Greece, the arbitral tribunal shall apply the substantive rules of law chosen by the parties (Article 37 L. 5016/2023). Even a tacit choice of law suffices. The parties are not obliged to designate the substantive law of a particular State. Accordingly, and unless otherwise provided, the designation of the law of a particular State is deemed as a direct reference to its substantive rules, rather than its conflict of law rules. General principles of law, such as *lex mercatoria*, or a set of rules such as the UNIDROIT Principles are also available to them. Absent any indication by the parties as to the applicable law, the arbitrator shall apply the substantive law determined by the conflict of laws rule he considers appropriate to the dispute at hand. The arbitral tribunal may decide the case *ex aequo et bono* only if the parties have expressly vested such authority in it. In any event, the arbitral tribunal shall decide in accordance with the contractual terms and take into account the trade usages applicable to the transaction.

In domestic arbitration, the arbitral tribunal shall apply the substantive provisions of Greek law unless the arbitration agreement provides otherwise (Article 890 GrCCP). The parties may agree on the application of foreign law or vest in the arbitral tribunal the authority to decide *ex aequo et bono*. Party autonomy as to the choice of applicable substantive law is nevertheless limited in the sense that parties may not evade the application of Greek public order provisions.

## 16. In your country, are there any restrictions in the appointment of arbitrators?

In international commercial arbitral proceedings having their seat in Greece, unless otherwise agreed, no person shall be precluded by reason of his nationality from acting as an arbitrator (Article 15 para. 1 L. 5016/2023). Furthermore, in case the appointment of an arbitrator takes place by Court intervention, the Court shall duly consider any qualifications provided for under the agreement of the parties as well as matters pertaining to the independence and impartiality of the arbitrator. The Court shall examine whether it would be prudent to appoint an arbitrator of a nationality different than those of the parties.

In domestic arbitration, Article 871 para. 2 GrCCP precludes from acting as arbitrators (a) persons that have no legal capacity or have limited legal capacity, (b) persons deprived of their citizen right to vote and to be elected due to a prior criminal conviction, (c) legal entities. In addition, Article 871A GrCCP provides for certain conditions and limitations regarding the appointment of judges acting as arbitrators. Further to said explicit restrictions it is unanimously accepted in case law and legal literature under the principle *nemo iudex in causa sua* and the maxim of fair trial that a person may not be validly appointed as arbitrator in a dispute involving his own interests. There is no restriction as to the nationality of the arbitrator.

## 17. Are there any default requirements as to the selection of a tribunal?

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## 18. Can the local courts intervene in the selection of arbitrators? If so, how?

Both in domestic, as well as in international commercial arbitral proceedings having their seat in Greece, court intervention is provided upon request of a party to the arbitration agreement in all cases in which either the parties' agreed procedure as regards the selection of the tribunal or the default rules applicable absent such agreement, may not be implemented for various reasons. Such motion is tried under the rules controlling the so

 

called “non-contentious proceedings”. Against the decision of the Court no legal remedy may be taken (appeal, petition for cassation etc.). A request for revocation and/or amendment may be filed nevertheless until the commencement of arbitral proceedings.

## 19. Can the appointment of an arbitrator be challenged? What are the grounds for such challenge? What is the procedure for such challenge?

In international commercial arbitral proceedings having their seat in Greece, Articles 18, 19 and 20 L. 5016/2023 provide for the challenge of an arbitrator before the state courts. Although the parties may agree on a specific challenge procedure, they may not exclude the exercise of judicial control over the decision of the tribunal dismissing a challenge request which is provided under Article 19 para. 3.

In domestic arbitration, the parties may jointly revoke the appointment of an arbitrator (Article 883 para. 1 GrCCP). In case such an appointment has taken place by virtue of a Court decision, a request for its revocation must be filed and be accepted by the same Court. Challenges against arbitrators are tried by state Courts. The law incorporates by reference the grounds for challenge applicable to state court judges which are thus made applicable also to arbitrators. These grounds include lack of impartiality. Case law however interprets said provisions broadly in the context of arbitration accepting that a valid ground for challenging an arbitrator exists, for example, in some types of issue-conflict, even though such a ground would never be accepted as regards state court judges. Hence, the application of the same rules to state court judges and arbitrators alike, nevertheless yields different results.

Pending such challenge the arbitral tribunal postpones the proceedings. The arbitrator challenged shall also temporarily refrain from exercising his duties. However, according to the prevailing view in legal literature, said prohibitions are in fact *leges imperfectae* in the sense that the award may be set aside only in case it was made by an arbitrator who had already been successfully challenged.

## 20. Have there been any recent developments concerning the duty of independence and impartiality of the arbitrators, including the duty of disclosure?

A recent development as regards impartiality standards is a growing body of case law according to which the Greek State may not appoint as arbitrators Members of the Legal Council of the State i.e. of the Body of the Administration the members of which are vested with the power, amongst others, to represent the State before the Courts.

## 21. What happens in the case of a truncated tribunal? Is the tribunal able to continue with the proceedings?

In international commercial arbitral proceedings having their seat in Greece, Article 21 L. 5016/2023 applies. Said provision incorporates a rule unknown to the Model Law, according to which, once the replacement arbitrator is appointed, absent an agreement by the parties, the arbitral tribunal may by virtue of a unanimous decision decide that arbitral proceedings will resume from the point of “interruption”. The very notion of “interruption” of proceedings suggests that a truncated tribunal may not proceed. This is the only plausible interpretation of the Greek law, even though Article 15 of the Model Law does not explicitly foreclose such authority.

In domestic arbitration, absent an agreement to the contrary, the arbitration agreement is deemed terminated in case the appointment of a substitute arbitrator is for any reason not feasible (Article 885 GrCCP). The rule applies only to arbitrators jointly appointed by the parties either in the arbitration clause or subsequently. This is because the law presupposes that an arbitrator appointed by one of the parties or by a third party may always be substituted in the same way. Said rule undeniably encompasses a strong presumption against a truncated tribunal's authority to continue with the proceedings: A truncated tribunal is deemed incapacitated. The situation must be remedied by the appointment of a substitute arbitrator. In case this is not feasible the arbitration agreement ceases to exist.

## 22. Are arbitrators immune from liability?

Arbitrators are not immune from liability. Under Article 22 L. 5016/2023, arbitrators may be held liable only for gross negligence or intentional breach of their duties. The same stands for domestic arbitration (Article 881 GrCCP). Said rule also applies to judges regarding the violation of their duties. In case the conduct of the arbitrator constitutes a criminal act (e.g. bribery), apart from the fact that he may be subject to prosecution, the aggrieved party may bring a tort claim against him under Greek Civil Code. Specific procedural requirements apply. Claims against arbitrators shall take the form of a special remedy, the so-called

 

action for judicial misconduct. This remedy must be filed within 6 months from the time the arbitrator's wrongful act or omission takes place. In case the claim against the arbitrator is premised upon an erroneous award, it is argued in legal literature, that, by analogy to what is applicable to State Court judges, the aggrieved party must first exhaust all available remedies against the award. In case the request for setting aside the award is successful, an action for judicial misconduct is precluded for lack of damage. On the contrary, in case the request is dismissed, the aggrieved party must file said action within six months.

## 23. Is the principle of competence-competence recognised in your country?

The principle of competence – competence is unanimously accepted in legal literature and case law. It is also the law as regards both domestic as well as international commercial arbitral proceedings. With regard to the former, Article 887 para. 2 GrCCP provides that, unless the parties agree otherwise, the arbitrators have jurisdiction to decide on their own jurisdiction. With regard to the latter, Article 23 para. 1 L. 5016/2023 provides the same without the reservation of a contrary agreement by the parties.

No negative effect of competence – competence is however recognized.

## 24. What is the approach of local courts towards a party commencing litigation in apparent breach of an arbitration agreement?

The idea that a party initiating litigation proceedings before State Courts is in breach of an obligation to arbitrate is somewhat odd to Greek case law. Courts place emphasis on the principle that such a complaint is to be regarded admissible since the existence of a valid arbitration clause is fashioned as a procedural defense to be pleaded by the defendant and not as an admissibility requirement. For that reason, it is highly unlikely that a claim for damages would succeed even if the breach of the arbitration agreement is apparent. Legal literature, however, accepts a different position and rightly so. In case however such a claim is adjudicated by the arbitrators following a referral, Greek courts are not in position to second-guess such an award in the context of set aside proceedings.

## 25. What happens when a respondent fails to participate in the arbitration? Can the local courts compel participation?

Under Article 33 L. 5016/2023, unless otherwise agreed by the parties, arbitral proceedings are terminated if claimant fails to file his statement of claim in accordance with Article 31 para. 1. If respondent fails, without a good cause, to file his statement of defense, the proceedings advance, but the tribunal is not allowed to treat this failure per se as an admission of material facts pertaining to the claimant's allegations. If any party fails to appear at a hearing or to produce documentary evidence without good cause, the arbitral tribunal may continue the proceedings and make the award on the evidence before it. State courts may not compel the parties to the arbitration agreement to arbitrate. They may only refer the dispute to arbitration if a respective defense is raised regarding a complaint filed with them.

In domestic arbitration, unless otherwise agreed in the arbitration agreement (Article 887 para. 1 GrCCP), the case is tried, and an award is rendered even if a summoned party defaults or fails in any other way to take part in the proceedings by pleading its assertions and submitting evidence.

## 26. Can third parties voluntarily join arbitration proceedings? If all parties agree to the intervention, is the tribunal bound by this agreement? If all parties do not agree to the intervention, can the tribunal allow for it?

Article 24 L. 5016/2023 explicitly regulates the matter of the intervention of third parties to pending arbitral proceedings, providing that the arbitral tribunal has the power to accept that a person joins in the arbitral proceedings, as claimant, respondent, or third-party intervener with a legal interest in the resolution of the dispute already submitted to arbitration, under the condition that said person is already bound by the arbitration agreement or agrees to be bound by the arbitration agreement at hand. In the second case, the initial parties to the proceedings need to consent for the third party to enter into the arbitration agreement. Therefore, third parties may voluntarily intervene in the proceedings, provided that they are bound by the arbitration agreement at hand. This is the only precondition described in said Article. On the contrary, the provision does not require the agreement of the parties. Therefore, the participation of third parties in the arbitral proceedings is only subject to the arbitral tribunal's discretion. In deciding on whether to grant such applications, the arbitrators shall first hear the parties'

 

views on the matter and consider the circumstances of the case, such as the current stage of the proceedings and the expediency of a single adjudication of all disputes.

In any case, in the context of procedural autonomy, the parties may agree to the application of institutional rules under which the issues at hand are to be decided (Article 24 para. 4).

## 27. What interim measures are available? Will local courts issue interim measures pending the constitution of the tribunal?

Under Article 25 L. 5016/2023, unless otherwise agreed by the parties, the arbitral tribunal upon request may grant the interim measures that it deems necessary in relation to the subject matter of the dispute. The arbitral tribunal is not obliged to order only the specific interim or conservative measures which are explicitly provided for under the respective provisions of the GrCCP. Arbitrators may now issue ex parte preliminary orders. Article 25 must be read in conjunction with Article 13 which provides that the arbitration agreement does not prohibit the parties from resorting to State Courts and request interim relief before or during arbitral proceedings. Article 13 is applicable to any and all international commercial arbitral proceedings regardless of the place of arbitration. Therefore, in international commercial arbitral proceedings both the arbitral tribunals as well as State Courts are vested with the authority to grant interim relief. According to the prevailing view, any conflict between the two jurisdictions shall be resolved in favor of the forum in which the request for interim relief was first filed. Said authority of State Courts is obviously of essence, given the absence of emergency arbitrator provisions in Greek law, at the phase while the constitution of the arbitral tribunal is still pending. L. 5016/2023 adopts the system of recognition and enforcement of the interim measures, as provided in Model Law. Recognition or enforcement of the interim measures shall be refused on public policy grounds and in cases where the national courts would have already been seized, upon relevant request, to order a similar interim measure.

In domestic arbitration, arbitral tribunals are prohibited from granting interim or conservative measures of any kind (Article 889 para. 1 GrCCP). Hence, the parties to the arbitration agreement must pursue State Court litigation to seek interim relief.

## 28. Are anti-suit and/or anti-arbitration injunctions available and enforceable in your country?

Greek Courts are rather hostile towards the notion of anti-suit and/or anti-arbitration injunctions which is of common law origin and strange to civil law jurisdictions, including Greece. No Greek Court would ever grand such an injunction irrespective as to whether it aims at the preservation of a foreign court's or an arbitral tribunal's jurisdiction to adjudicate a certain matter between the same parties.

Even more, Greek Courts have resisted on public policy grounds the enforcement of such orders, aiming at restraining their jurisdiction. It has been held that the enforcement of an anti-suit injunction violates Greek public policy, due to violation of court's jurisdiction to exercise its adjudicative power, which amounts to state's sovereignty infringement as well as to a violation of the constitutional right to access to justice.

As per anti-arbitration injunctions, there is no legal basis for the issuance thereof by a Greek Court. In any case, Article 12 para. 2 L. 5016/2023 provides that *lis pedens* established by the initiation of proceedings before a State Court between the same parties on the same subject matter, does not preclude the initiation and continuation of arbitration proceedings between the same parties and on the same subject matter as well as the issuance of an arbitral award.

## 29. Are there particular rules governing evidentiary matters in arbitration? Will the local courts in your jurisdiction play any role in the obtaining of evidence? Can local courts compel witnesses to participate in arbitration proceedings?

Both in domestic as well as in international commercial arbitral proceedings the maxim of the procedural autonomy of the parties allows them to designate at will the evidentiary proceedings to be followed. Absent such a designation, the arbitral tribunal determines the appropriate evidentiary proceedings. In almost all cases, the arbitral tribunal would consult with the parties and seek their consent regarding evidentiary matters. It is noted that subject to contrary agreement of the parties, Article 35 L. 5016/2023 establishes for the first time the power of the arbitral tribunal to order the parties to produce documents or other evidence which it may regard as material to the outcome of the case. L. 5016/2023 provides for tribunal-appointed experts and the document production mechanism, both of which are

 

subject to the parties' agreement. Thus, both the parties as well as the arbitral tribunals are free to designate a unique evidentiary proceeding tailored to the dispute at hand or to choose from sets of evidentiary rules which are readily available and adopt them as a whole or with certain deviations. The latter is obviously the rule both in domestic and international commercial arbitral proceedings. That being said, in domestic arbitration the parties and the arbitral tribunals tend to opt for the relaxed, yet not sophisticated, evidentiary rules which are applicable to State Court interim relief proceedings under the GrCCP. In international arbitral proceedings, the parties and the arbitral tribunals tend to opt for sophisticated sets of rules amongst which the IBA Rules on the Taking of Evidence in International Arbitration hold a prominent position. Both in domestic and international commercial arbitral proceedings court intervention is provided for, in order to facilitate and aid the taking of evidence. It should be noted that the arbitral tribunal maintains full control over the evidentiary proceedings. The intervention of State Courts is reserved only regarding evidentiary rulings and actions that may not be taken by the arbitral tribunal because they entail the imposition of penalties for not compliance or the use of coercive means to secure the taking of evidence. Such instances constitute the exception rather than the rule.

## 30. What ethical codes and other professional standards, if any, apply to counsel and arbitrators conducting proceedings in your country?

There are no arbitration-specific rules of conduct pertaining to attorneys acting as counsels and/or as arbitrators in the Greek legal system. The Greek Code of Lawyers and the Lawyer's Code of Conduct are generally applicable.

## 31. In your country, are there any rules with respect to the confidentiality of arbitration proceedings?

Putting to rest debates about the existence or inexistence of an implied duty of confidentiality, Article 27 L. 5016/2023 makes it plain that there is no default rule and the parties, or failing them the tribunal, must decide whether the proceedings, pleadings, hearings, and resulting decisions are confidential or not.

## 32. How are the costs of arbitration proceedings estimated and allocated? Can pre- and post-award interest be included on the principal claim and costs incurred?

In domestic arbitral proceedings, the final allocation of costs is made in the final award (Article 882 para. 3 GrCCP). Under Article 41 para. 4 L. 5016/2023, the allocation of costs may also be made with a separate award following the issuance of the final award.

In domestic arbitration, the fees and expenses of the arbitral tribunal calculated as a percentage of the amount in controversy given the subject matter of the dispute based on a specific scale (Articles 882 and 882A GrCCP). If such a valuation is objectively not feasible the fees shall be determined by the Arbitral Tribunal *ex aequo et bono*. Allocation of costs is governed by Articles 176 et seq. GrCCP which are applicable by analogy also to Court proceedings. In principle the unsuccessful party is ordered to pay the costs of the successful party (Articles 176, 178 GrCCP). It is however not rare for arbitral tribunals to set off the costs between the parties on the premise that the dispute at hand involved the resolution of especially complex legal questions (Article 179 GrCCP).

Under Article 41 para. 4 L. 5016/2023, absent an agreement of the parties, the allocation is made by the arbitral tribunal which, shall consider the circumstances of the case, and, most importantly its outcome. Said provision allows the arbitral tribunal significant room and latitude to decide on the costs. Obviously, it prevails as *lex specialis* over the provisions of Articles 176 et seq. GrCCP which apply by analogy to domestic arbitration. Both in domestic as well as in international commercial arbitral proceedings, arbitration costs include obviously legal fees and expenses. The arbitral tribunal's allocation of costs is subject to scrutiny by State Courts upon a challenge brought against the award by any interested party.

This question is governed by the substantive law applicable to the merits of the dispute. and is to be answered in the affirmative as regards default interest. Controversy exists as to litigation interest i.e. interest accrued only by virtue of initiation of litigation. According to the prevailing view in case law, a Request for arbitration does not trigger litigation interest since this is merely notified and not stricto sensu “served upon” the Respondent (service of process is a prerequisite for litigation interest under Greek law). In legal literature the opposite view prevails on the assumptions that this is merely a technicality and that arbitration proceedings constitute litigation not to be distinguished by State Court proceedings in relation to litigation interest.

 

In any event, Greek substantive and procedural law does not grant state courts and arbitrators by analogy the authority to grant interest *ipso jure*. A specific prayer for relief must exist.

### 33. What legal requirements are there in your country for the recognition and enforcement of an award? Is there a requirement that the award be reasoned, i.e. substantiated and motivated?

Awards rendered in domestic or international commercial arbitral proceedings having their seat in Greece produce immediately res judicata effect and enforceability (Article 896 para. 2 GrCCP, Article 44 para. 3 L. 5016/2023). As regards foreign awards, Greece is a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. In addition, pursuant to Article 45 L. 5016/2023 the provisions of the New York Convention are generally applicable to all foreign arbitral awards, hence, also to awards that for any reason would otherwise not fall within their ambit.

Case law proclaims that the award must be reasoned i.e. must set forth the facts upon which the tribunal premised its decision under the law applied. This requirement, however, is not applied vigorously and definitely not in the same manner that a similar ground for cassation existing as regards state courts decisions is applied. Only outright arbitrary awards or awards lacking even a minimum of factual findings are at risk of being set aside by State Courts.

### 34. What is the estimated timeframe for the recognition and enforcement of an award? May a party bring a motion for the recognition and enforcement of an award on an ex parte basis?

A decision by the State Courts declaring a foreign award enforceable is to be anticipated within a timeframe of 4 – 8 months from the time the petition is filed.

There is still controversy as to whether the party wishing to have a foreign award declared enforceable in Greece is obliged or not to summon the other party to the court proceedings initiated for that purpose. The prevailing view is that the award debtor must be summoned and thus granted the opportunity to raise the defenses provided for under article V 1 of the New York Convention. There is however case law taking the opposite view i.e. the view that the trial proceeds ex parte and that the award debtor may only intervene requesting that the motion is dismissed or bring a third-party challenge afterwards, in order to quash the decision declaring the award enforceable. It is noted that under this second approach, even if the award debtor is summoned to the trial by notification, he does not become a party to this trial in case he does not additionally file an intervention.

### 35. Does the arbitration law of your country provide a different standard of review for recognition and enforcement of a foreign award compared with a domestic award?

Domestic awards produce res judicata effect and are immediately enforceable. They are not thus subject to review in that sense.

### 36. Does the law impose limits on the available remedies? Are some remedies not enforceable by the local courts?

No such specific limitation is explicitly imposed. The question is dealt with in the context of arbitrability. Public order considerations are also obviously applicable.

### 37. Can arbitration awards be appealed or challenged in local courts? What are the grounds and procedure?

In domestic arbitration, parties are not allowed to take an appeal against the arbitral award before the State Courts (Article 895 para. 1 GrCCP). The arbitration agreement may provide for an appeal to be taken before other arbitrators (Article 895 para. 2 GrCCP), however, this is obviously something different. According to Article 897 GrCCP, an arbitral award rendered in domestic arbitration may be set aside, in whole or in part, only by virtue of a court decision on the following grounds: (1) if the arbitration agreement is null and void; (2) if the award was rendered after the arbitration agreement had ceased to exist; (3) if the arbitrators that rendered the award were appointed in violation of the provisions of the arbitration agreement, or of the law, or if the parties had already revoked them, or if they rendered the award despite the fact that they had already been successfully challenged; (4) if the arbitrators that rendered the award acted in excess of the powers vested in them by the arbitration agreement or by the law; (5) if the provisions of para. 2 of Article 886 GrCCP [regarding the principle of equal treatment], or of Articles 891 GrCCP [regarding the majority vote] and 892 GrCCP [regarding the form of the award] were violated; (6) if the award is contrary to public policy rules or to morality; (7) if the award is

 

incomprehensible or contains contradictory dicta; (8) if there are grounds for the reopening of proceedings pursuant to Article 544 GrCCP [this is an extraordinary legal remedy provided against final State Court decisions premised upon grounds pertaining to vast procedural irregularities as well as fraudulent conduct]. Said request for setting aside the award is adjudicated by the Court of Appeals in the district of which the award was made (Article 898 GrCCP). The procedure applicable is that provided for special property disputes under to Articles 614 et seq. GrCCP. Against the decision rendered by the Court of Appeals the aggrieved party may file a petition for cassation with the Supreme Court. The request for setting aside the award shall be filed within three months from the date the award was notified to the party. Both this term as well as the filing of the request per se do not prevent the enforcement of the award. Following the filing, said competent court may order the stay of the enforcement proceedings, with or without a guarantee, until a final decision is issued, in case it deems that a ground pleaded is likely to succeed. Not only the parties to the arbitration proceedings but also third parties are allowed to challenge the arbitral award assuming that they have legal standing i.e. under the condition that they are bound by its res judicata effect (see Answer to Question 40 below). Furthermore, in domestic arbitration, Article 901 GrCCP provides for an additional remedy against the arbitral award, namely the action seeking a binding declaration that the award in non-existent on the following grounds: (a) that an arbitration agreement was never concluded, (b) that the subject matter of the dispute resolved by the award was non-arbitrable, and, (c) that the award was rendered against a non-existent respondent. This declaratory action is not subject to any time limitation. Apart from that, what has already been stated as regards the request for setting aside the award applies by analogy to the request for a binding declaration of the non-existence of the award. This is true with regard to the competent court (CoA), the procedure (non-ordinary special proceedings), the available legal remedies against the decision (petition for cassation before the Supreme Court), and the fact that the enforcement of the challenged award is not ipso jure stayed. It is noted that the non-existence of the award on said grounds may also be pleaded by means of an affirmative defense.

As regards international commercial arbitral proceedings having their seat in Greece, Article 43 L. 5016/2023 incorporates the provisions of Model Law as to the grounds for setting aside the award. As already mentioned, L. 5016/2023 provides that a negative jurisdictional ruling may be now challenged, and an additional ground regarding awards procured through fraudulent or forged evidence, bribery, or corruption as described in Article 544 GrCCP. As stated above, said ground for setting aside is also found in domestic arbitration. Article 544 paragraphs (6) and (10) GrCCP provide an extraordinary legal remedy against court decisions procured through fraudulent or forged evidence, bribery, or corruption, in cases where criminal judgments have been respectively issued against the persons involved. It is noted that the position in legal theory had already been that such instances could be brought under the procedural public policy ground for challenge. Given that in domestic litigation proceedings courts apply Article 544 GrCCP in a strict manner, same approach is expected to be taken by courts in the context of setting aside proceedings of arbitral awards. The distinction in Model Law between grounds that must be pleaded by the plaintiff and grounds that are considered ipso jure is thus preserved. As it is well known, the Model Law grounds are almost identical to those provided under Article V of the New York Convention. That being said, in legal literature, it is argued that their interpretation may differ given that the legal consequences pegged to the annulment of the award are different compared to the legal consequences pegged to the refusal of its recognition and enforcement in a specific country.

The same procedural rules as to the request for setting aside an award rendered in domestic arbitral proceedings apply with regard to the competent court (CoA), the legal standing (parties to the arbitration proceedings and third parties bound by the res judicata effect of the award), the procedure (special property disputes), the available legal remedies against the decision (petition for cassation before the Supreme Court), the time limitation for filing the request (three months, apart from the new ground regarding awards produced fraudulent or forged evidence, bribery or corruption, the time-limit of which is three years of the issuance of the award) and the fact that the enforcement of the challenged award is not ipso jure stayed. It is disputed whether third parties which are not bound by the res judicata effect of the award but are nevertheless adversely affected by it may bring a third-party challenge parallel to their right to challenge the award on said specific grounds. The question is posed both in domestic as well as in international commercial arbitral proceedings. A third-party challenge is a special remedy provided for under Article 583 GrCCP against judicial decisions or extrajudicial acts which adversely affect the interest of third parties which were not heard in the process. Many commentators answer this question in the affirmative. (See also Answer to Question 40 below.)

 

## 38. Can the parties waive any rights of appeal or challenge to an award by agreement before the dispute arises (such as in the arbitration clause)?

Pursuant to Article 43 para. 7 L. 5016/2023 and regarding international arbitrations having their seat in Greece, parties may at any time waive the right to seek to set aside an arbitral award, by express agreement in writing. The parties retain the right to invoke set-aside grounds to oppose recognition or enforcement of the arbitral award.

As regards domestic arbitration, pursuant to Article 900 GrCCP the parties may not ex ante waive their right to challenge the award. An ex post waiver is always deemed valid. Nevertheless, an ex ante waiver may be deemed valid in case the respective agreement entailing the arbitration clause is ratified by law which then prevails over Article 900 GrCCP as lex specialis. This is common in contracts entered into by the Greek State.

## 39. In what instances can third parties or non-signatories be bound by an award? To what extent might a third party challenge the recognition of an award?

Awards rendered in domestic or international commercial arbitral proceedings having their seat in Greece produce immediately res judicata effect and enforceability (Article 896 para. 2 GrCCP, Article 44 para. 2 L. 5016/2023). GrCCP provides for specific instances in which a state court decision produces effects (res judicata, enforceability) against or in favor of third parties. The same provisions apply also with regard to arbitral awards. Article 44 para. 2 L. 5016/2023 further clarifies that res judicata effect of arbitral awards may extend to third parties only when they are bound by the arbitration agreement.

As regards foreign arbitral awards, on the basis of the prevailing "theory of extension" the res judicata effect of the award is controlled by the law of the place where the award was made. This effect is "extended" as it stands to Greece as the place of enforcement.

As regards the second question, the following clarification must be made: The petition for recognition and enforcement of foreign awards is tried under the rules set forth in Articles 739 et seq. GrCCP controlling the so-called "non-contentious proceedings" which do not follow closely the adversarial model which presupposes the existence of a plaintiff and of a defendant in any event. A request in "non-contentious proceedings" in general does not need to be addressed against an opposing party. For that reason, the applicable rules do not provide a definite answer on whether the award debtor shall be named defendant and/or summoned to the proceedings. The existing case law is contradictory, whereas in legal literature the prevailing view is that the award debtor shall be summoned to the proceedings under the NY Convention in order to be able to raise the defenses provided therein as means of resisting the recognition and enforcement of the award. In the context of this controversy, those who purport the view that the award debtor shall not be named defendant nor summoned to the proceedings, necessarily treat him as "third party" in order to allow him to bring afterwards a third-party-challenge under Article 583 GrCCP against the decision rendered. The same holds true as regards not summoned third parties which are bound by the res judicata effect of the award. As regards third parties to the arbitration proceedings per se, which are not bound by the res judicata effect of the award but are nevertheless otherwise adversely affected by it, the question whether they are allowed to bring a third-party-challenge under Article 583 GrCCP is disputed. As noted above, a similar issue is posed with regard to the award itself, i.e. it is disputed whether said third parties are allowed to bring a third-party-challenge against the award per se (reference is made obviously to awards made in Greece either in domestic or international commercial arbitral proceedings). However, the question in the context discussed here is somewhat different in the sense that the third-party-challenge is not brought against a foreign award (such a challenge would not be governed by Greek law and would not be tried by Greek courts) but against the decision recognizing and declaring it enforceable. Hence, it seems that such a remedy under Article 583 GrCCP which generally allows third party challenges against court decisions may not be precluded as a matter of principle, assuming always that legal standing exists.

## 40. Have there been any recent court decisions in your jurisdiction considering third party funding in connection with arbitration proceedings?

No. The concept of third-party funding is unknown to Greek law. This does not mean, however, that this arrangement would be considered prohibited. On the contrary, the combination of traditional instruments of contract and procedural law could result in a functional equivalent.

## 41. Is emergency arbitrator relief available in

 

### your country? Are decisions made by emergency arbitrators readily enforceable?

No, it is not. State Court intervention remains the only available solution for interim relief prior to the constitution of the arbitral tribunal. Experienced lawyers are nevertheless aware of the problem and for that reason strongly advise in favor of arbitration clauses providing for the application of institutional arbitration rules, such as the ICC Rules, which afford parties this option. However, the decisions made by emergency arbitrators are not readily enforceable in Greece.

### 42. Are there arbitral laws or arbitration institutional rules in your country providing for simplified or expedited procedures for claims under a certain value? Are they often used?

There are no arbitral laws in Greece regulating simplified or expedited procedures. Athens Mediation and Arbitration Organization "EODID" which administers both domestic and international arbitrations provides its own set of rules for arbitration, including a fast-track procedure for small claims under 200.000€ or when the parties expressively agree to it.

### 43. Is diversity in the choice of arbitrators and counsel (e.g. gender, age, origin) actively promoted in your country? If so, how?

No. It is not even identified as an issue.

### 44. Have there been any recent court decisions in your country considering the setting aside of an award that has been enforced in another jurisdiction or vice versa?

No. Both questions are disputed in legal literature. The prevailing view is that a foreign award already annulled in the country where it was made shall not be recognized in Greece and that recognition or non-recognition elsewhere of an award made in Greece is, as a matter of principle, indifferent to the outcome of the request for setting aside the award filed with the Greek courts.

### 45. Have there been any recent court decisions in your country considering the issue of corruption? What standard do local courts apply for proving of corruption? Which party bears the burden of proving corruption?

No. Corruption is seldom pleaded before the Greek Courts. In case this is done courts apply the usual standard for proving corruption. The party that invokes corruption in order to base its prayers for relief upon this allegation has the burden to prove its existence.

### 46. What measures, if any, have arbitral institutions in your country taken in response to the COVID-19 pandemic?

There are no particular measures taken in response to COVID-19 pandemic by arbitral institutions in Greece.

### 47. Have arbitral institutions in your country implemented reforms towards greater use of technology and a more cost-effective conduct of arbitrations? Have there been any recent developments regarding virtual hearings?

Arbitral institutions in Greece have not implemented particular reforms towards greater use of technology. However, most sets of arbitration rules do not encompass provisions, which would restrict parties from agreeing on the adoption of greater use of technology, including virtual hearings.

### 48. Have there been any recent developments in your jurisdiction with regard to disputes on climate change and/or human rights?

There are no recent developments in Greece with regard to disputes on climate change or human rights.

### 49. Do the courts in your jurisdiction consider international economic sanctions as part of their international public policy? Have there been any recent decisions in your country considering the impact of sanctions on international arbitration proceedings?

There is no case law in Greek legal order confirming that the economic sanctions regime is part of Greek international public policy. However, according to well-established case law, primary EU law forms part of Greek international public policy. On this premise, a Greek court would most likely find that the EU sanction-regime forms part of the international public policy. Up to date there is no case law on the impact of sanctions on international

 

arbitration proceedings.

### 50. Has your country implemented any rules or regulations regarding the use of artificial intelligence, generative artificial intelligence or large language models in the context of international arbitration?

No, Greece has not implemented any rules of this kind.

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