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Greece

LITIGATION

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

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1. What are the main methods of resolving disputes in your jurisdiction?

The main methods of resolving commercial disputes in Greece are litigation and arbitration, while mediation is gradually gaining ground, especially in view of recent legislative initiatives (e.g. law 4640/2019, as in force) aiming to promote its role in the civil dispute resolution system.

2. What are the main procedural rules governing litigation in your jurisdiction?

The main procedural provisions governing commercial litigation are included in the Greek Code of Civil Procedure (hereinafter the "GCCP"). General principles stemming from the GCCP and governing the commercial litigation proceedings are: (a) the principle of the parties' control of the cause of action, (b) the principle of party representation, (c) the principle of the progress of the trial, on the initiative of the parties having power of disposal of the object of the trial, (d) the principle of concentration and (e) the principle of conducting the trial in good faith. What is more, the Greek civil procedural system, applicable in the context of commercial dispute resolution, guarantees: (a) the determination of the competent judge by the law and not by the litigant parties, (b) the independence and the impartiality of the court, (c) the non-application of unconstitutional laws, (d) the parties' equality, (e) the right to have access to justice and to defend oneself, (f) the public character of the trial and (g) the reasoning of the decisions delivered by the courts.

3. What is the structure and organisation of local courts dealing with claims in your jurisdiction? What is the final court of appeal?

The structure of the Greek courts follows the rule of "two-instance jurisdiction". That means that each commercial dispute shall be initially introduced to the competent court of first instance (District Civil Court, Single-Member Court of First Instance or Multi-Member Court of First Instance). The party defeated on first instance (in whole or in part) is, in principle, entitled to file an appeal against the decision of the court of first instance, challenging both the legal and the factual grounds of the decision, before the Court of Appeal. The decision of the Court of Appeal is final and enforceable. It can only be challenged before the Supreme Court; the Supreme Court does not however constitute a third level of jurisdiction, since it may only examine legal defects of the decisions of the Court of Appeal or the unappealable decisions of the Civil District Court or Court of First Instance.

Furthermore, under the new Law 4842/2021, which introduced amendments in the GCCP towards the acceleration of civil trials and the digitalization of the civil procedure, the new Article 20A of the GCCP introduces the concept of "pilot trials" in civil justice. Pilot trials are proceedings directly conducted before the Plenary Session of the Supreme Court (bypassing the lower courts), for the purpose of conclusively resolving complex and influential legal matters, in order to accelerate the administration of civil justice and bolster legal certainty, by issuing a preliminary decision on a new complex interpretative legal matter of general interest with repercussions for a wide group of persons.

4. How long does it typically take from commencing proceedings to get to trial in your jurisdiction?

Under the aforementioned new Law regarding the amendments to the GCCP, article 237 of GCCP, as amended, states that, in the context of the ordinary procedure, both parties are granted a time period of ninety days, between the deadline of the service of an action (according to par.2 of Article 215 of the GCCP, the action must be served to the defendant within thirty days from its submission to the court or sixty days, should the defendant or any of his joined parties be a resident of another country or of unknown residence)

and the filing date of the pleadings (which is extended to one hundred and twenty days if the defendant or any of his joined parties is a resident of another country or of unknown residence). Within fifteen days from the submission of the pleadings, the parties may submit rejoinders to rebut the arguments introduced by the pleadings. As of 01.01.2022, new allegations arisen after the pleadings' submission deadline, as well as allegations which can be proven in writing by means of documents or by the other party's judicial admission, may be filed through an additional rejoinder, by no later than twenty days before the hearing of the case. The parties may submit rejoinders rebutting these new allegations, by no later than ten days before the hearing of the case (par.5 of Article 237). The hearing of the case, which follows the submissions, is a rather typical process, taking place within the next few months, subject to the actual capacity of the court. In particular monetary proceedings (such as proceedings related to lease agreements or disputes arising from securities), the hearing of the case is set by the court on the filing date of the action, within a period set between six months and a year. In cases where the claim is proven by documents issued or accepted by the defendant, a payment order may be issued in an expedited *ex parte* procedure. Said order may be challenged by the defendant before the competent courts.

5. Are hearings held in public and are documents filed at court available to the public in your jurisdiction? Are there any exceptions?

In commercial litigation, the public character of the hearing is mandatory in principle. However, the documents submitted by the parties are only available to the opposing litigant party and not the public. Exceptionally, persons having a specific legal interest in a case may receive copies of documents included in the files of the case, by order of the judge on duty.

6. What, if any, are the relevant limitation periods in your jurisdiction?

The general limitation period is twenty years from the establishment of the claim. Shorter limitation periods are also provided. Indicatively, with regard to certain aspects of commercial claims (such as claims for interest, claims of merchants for the price of their delivered products, claims for the payment of the consideration provided in lease agreements), article 250 of the Greek Civil Code (hereinafter the "GCC") provides for a five-year time limitation, starting at the end of the year when the claim was established (article 251 of the GCC). Furthermore, a particular limitation period is provided for claims related to unfair competition (eighteen months starting from the point where the claimant became aware of the act and the responsible person and in any case five years since the act).

7. What, if any, are the pre-action conduct requirements in your jurisdiction and what, if any, are the consequences of non-compliance?

Since the introduction of law 4640/2019, the parties are obliged to attempt the resolution of their dispute through mediation, before submitting any action before the court, for certain categories of disputes. More specifically, the following commercial disputes are subject to mandatory attempt for mediation, provided that the parties have power of disposal of the object of the dispute: (a) civil and commercial disputes which are submitted before the Single-Member Court of First Instance, if the subject-matter exceeds €30,000, (b) civil and commercial disputes which are submitted before the Multi-Member Court of First Instance, irrespective of the subject-matter amount and (c) disputes referred to mediation according to an agreement of the parties, which is valid and in force. For all disputes in which the parties have power of disposal of the object of the dispute, the parties' attorneys are obliged to inform the former, in writing, that the relevant dispute can be settled by mediation. Should the parties fail to comply with these two mandatory prerequisites, the hearing of the case is declared inadmissible.

8. How are proceedings commenced in your jurisdiction? Is service necessary and, if so, is this done by the court (or its agent) or by the parties?

The proceedings before the courts are commenced with the filing of the action with the Secretariat of the Court and the subsequent service of the filed action to the defendant. The service is carried out by a court bailiff on the initiative of the plaintiff, within the deadlines set by the GCCP. In particular, with reference to the ordinary procedure, the action is served to the defendant within thirty days from its submission to the court. The relevant deadline is extended to sixty days, if the defendant is a resident of another country or of unknown residence. In particular monetary proceedings, the deadline for the summoning of the defendant to participate to the proceedings takes place by no later than thirty days (or sixty, as per above) before the hearing.

9. How does the court determine whether it has jurisdiction over a claim in your jurisdiction?

The jurisdiction over a claim constitutes a procedural prerequisite and is examined by the court *ex officio*, according to the rules provided in the GCCP and the relevant EU regulation, taking into consideration: (a) its competence over the subject-matter of the dispute and (b) its territorial competence. The parties may agree, explicitly or tacitly, on the prorogation of the territorial competence. In the event that prorogation relates to a dispute which is normally subject to an exclusive territorial competence (e.g. disputes relating to immovable property), the prorogation agreement must be explicit. Finally, if the above-mentioned agreement refers to disputes which have not yet arisen, it shall only be valid if concluded in writing, mentioning the specific legal relationship which may give rise to the relevant disputes.

10. How does the court determine which law governs the claims in your jurisdiction?

In litigation proceedings, the rule is "*iura novit curia*", i.e. the court knows the law. That means that the parties do not need to provide evidence on the pertinent legal framework. In case the parties have chosen to submit their agreement to a foreign law, said parties may provide experts' opinion with regard to the foreign framework. However, in such a case, the court is not restrained to examining the evidence provided by the parties on the matters of foreign law, but may also examine *ex officio* the laws, customs and commercial usages of foreign states, by ordering the provision of further evidence or using other means it deems necessary. In case no choice has been made by the parties and in the event that the relevant EU legal framework is not applicable, then the Court shall apply to the claim the law that is closer to the agreement of the parties, considering all specific circumstances of the case, in accordance with the provisions of Greek and EU private international law.

11. In what circumstances, if any, can claims be disposed of without a full trial in your jurisdiction?

In the Greek system of civil procedural law, the courts cannot dispose of a claim without a full trial.

12. What, if any, are the main types of interim remedies available in your jurisdiction?

The main provisions regulating interim remedies are included in Articles 682 to 738 of the GCCP (provisional measures). The main types of interim remedies that may be ordered by Greek courts, in case of an urgent need or for the avoidance of a forthcoming danger in the context of commercial litigation, are: (a) judicial security (Articles 704, 705 of the GCCP), (b) interim registration of a pre-notice of mortgage (Articles 706 et seqq. of the GCCP), (c) conservatory attachment (Articles 707 et seqq. of the GCCP), (d) custody (Article 725 et seqq. of the GCCP), (e) provisional award of claims (Article 728 et seqq. of the GCCP), (f) an injunction regulating matters on a provisional basis (Articles 731 et seqq. of the GCCP). In the event that the court deems it necessary to do so, it may issue (even acting *ex officio*) a provisional order, in order to preserve the status of the relevant right or matter until the issuance of its decision on the claim for interim remedies (Article 691A of the GCCP).

13. After a claim has been commenced, what written documents must (or can) the parties submit in your jurisdiction? What is the usual timetable?

As regards the ordinary procedure, the parties have to submit their pleadings in writing, along with all supporting evidence and procedural documents (including the power of attorney for the appointment of the lawyer by the client), within the deadlines specified in our answer to question 4 hereinabove. With reference to disputes which are subject to mandatory mediation, the parties must additionally submit with their pleadings the minutes of mediation, indicating the failure of the relevant attempt, as well as the signed document proving that they had been informed by their attorneys that the relevant dispute could be settled by mediation. Lastly, as of 01.01.2022, in the context of particular monetary proceedings, the parties submit their pleadings, along with all supporting evidence, on the date of the hearing, and the file closes five working days after the hearing date, with the submission of the rejoinders.

Moreover, the current version of the GCCP adopts a special procedure for small claims, which deviates from the standard procedure introduced by Law 4335/2015. The legislator of Law 4842/2022 introduced certain provisions of the standard procedure to the small claims' procedure, which have proved successful in speeding up its duration, such as the quick setting of the date of the hearing and the limitation of the option of calling off or postponing the hearing.

14. What, if any, are the rules for disclosure of documents in your jurisdiction? Are there any exceptions (e.g. on grounds of privilege, confidentiality or public interest)?

Each litigant party shall disclose the documents used or invoked in the trial (Article 450 of the GCCP). Moreover, documents in the possession of either a litigant or a third party, which are considered useful for the purpose of evidence and have not been used or invoked, shall also be disclosed (Article 450 II of the GCCP), unless there is a material reason justifying non-disclosure. In particular, a material reason justifying such non-disclosure exists in cases where the addressee of the request would also be excused if he had to testify as a witness, e.g. in cases of secrets that come to the attention of the person during his professional activity (priests, lawyers, notary publics, doctors, pharmacists, psychologists, consultants of the litigant parties), in case of bank secrecy or in case of confidential information held by public functionaries, in case of personal data protection etc. The disclosure of documents by a litigant party or a third person may be requested from the opposing party, either by means of a lawsuit, provisional measures or with his pleadings.

15. How is witness evidence dealt with in your jurisdiction (and in particular, do witnesses give oral and/or written evidence and what, if any, are the rules on cross-examination)? Are depositions permitted?

According to the GCCP, there are two categories of witness testimonies in commercial litigation: (a) oral statements and (b) written sworn statements. Written sworn statements may be submitted by the parties with their pleadings (Articles 421 et seqq. of the GCCP) and rejoinders. Each party is entitled to submit up to three sworn statements with its pleadings and up to two with its rejoinder, for every instance. The recent amendment of the GCCP by Law 4335/2015 and 4842/2021 has significantly diminished the role of oral witness statements in ordinary procedures, since oral witness examination may only take place if requested by the Court, if considered necessary. In such a case, oral statements may only be provided by persons who have already provided written sworn statements. With regard to particular monetary proceedings, each litigant party may examine one witness on the hearing date.

16. Is expert evidence permitted in your jurisdiction? If so, how is it dealt with (and in particular, are experts appointed by the court or the parties, and what duties do they owe)?

According to Articles 368 et seqq. of the GCCP, the court may appoint one or more experts, either on its own initiative or at the litigant parties' request, if it considers that scientific or practical knowledge is required, in order for certain issues to be determined. In case of an appointment of an expert by the court, each litigant party can also appoint a technical consultant. The experts prepare a report but may also be ordered to appear before the court. The courts proceeds to the appointment of experts from the lists kept at its seat. If no list of the required expertise is kept at the court's seat, the court may appoint any person it considers appropriate. Before performing their duties, the experts take an oath of diligent/conscientious implementation of their tasks. The timeline and the guidelines of their appointment are set by the court. The evidence provided by the expert's report is freely evaluated by the court.

17. Can final and interim decisions be appealed in your jurisdiction? If so, to which court(s) and within what timescale?

The rule is that interim decisions, in the sense of preliminary decisions, may not be appealed per se, without challenging the court's final decision on the case. Final and conclusive decisions are, with some limited exceptions, appealable. The deadline for filing an appeal, in case the first instance decision is not served, is two years from the day of the decision's publication by the first instance court. If the decision is served, the deadline is thirty days (if the applicant is a resident of Greece) or sixty days (if the applicant's residence is abroad or unknown), starting from the day of the service (Art. 518 of GCCP). An appeal against judgments of first instance courts permits, potentially and on the basis of the defects challenged by the appellant, a re-examination of the case *in globo*, i.e. in all legal and factual aspects. The legislator's approach is different with regard to decisions of interim measures. Pursuant to the provision of article 699 of GCCP, decisions accepting or rejecting applications for interim measures or requests for revocation or for the purpose of reforming such measures are not subject to appeal, with limited exceptions not largely applicable in commercial litigation. Interim decisions can, however, be revoked (articles 688 II, 696-698, 738 GCCP) under strict conditions.

18. What are the rules governing enforcement of foreign judgments in your jurisdiction?

The main rules governing the enforcement of foreign judgments are included in the GCCP (Articles 905 and 780 therein). In principle, foreign judgments are declared enforceable by Greek courts, if they are enforceable according to the law of the court which issued the decision and they are not *contra bonos mores* or opposed to the Greek international public order. However, where EU regulations or international conventions and bilateral treaties are applicable, the provisions of the GCCP are applied only to the extent that the relevant matter is not regulated therein. The *sedes materiae* on the enforcement of intra-EU judgments in Greece is the Brussels Recast Regulation (EU 1215/2012) "on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters".

19. Can the costs of litigation (e.g. court costs, as well as the parties' costs of instructing lawyers, experts and other professionals) be recovered from the other side in your jurisdiction?

The issues related to litigation costs are specifically regulated in Articles 173-193 of the GCCP. The basic principle for the allocation of procedural costs is the "principle of defeat" (article 176 GCCP), according to which, the defeated party has to pay the other party's costs. The cost to be compensated includes, among others, lawyers' and experts' (if any) fees (as regards lawyers' fees, the determination of costs by courts usually follows the minimum fees provided by law), stamp and other duties required for the submission of the action, as well as any payments that were necessary for the submission of evidence. The court may also partially "set off" the costs between the parties, in case of reasonable doubt regarding the outcome of the dispute (Article 179 GCCP).

20. What, if any, are the collective redress (e.g. class action) mechanisms in your jurisdiction?

Law 2251/1994 on Consumer Protection (as codified and in force) introduced, by way of exception, a form of "class action" designed to be initiated by consumers' unions, aiming at the protection of the general interests of consumers. The union may claim the omission of unlawful actions against consumer rights (specified by law 2251/1994, as codified and in force), the satisfaction of moral damages suffered by consumers, as well as the ordering of provisional measures to that end.

21. What, if any, are the mechanisms for joining third parties to ongoing proceedings and/or consolidating two sets of proceedings in your jurisdiction?

Third parties can intervene in a trial, to which they were not initially parties, in order to protect their interests either voluntarily, in case of a voluntary intervention, or involuntarily, as a result of either an impleader or a notice by the party already participating in the proceedings. A third party can intervene in order to invoke his own right and claim the object of the dispute for himself (principal intervention) or in order to support one of the main litigant parties (accessory intervention). A principal intervener is entitled to intervene at the first instance whereas an accessory intervener at every stage of the proceedings, until the issuance of a decision which cannot be subject to cassation. As regards the consolidation of claims, the plaintiff can consolidate more claims in one action against the same defendant, pursuant to article 218 GCCP, if the claims are not contradictory or incompatible (with the exception of subsidiary structure of the claims) and they belong a) (in total) to the subject-matter competence of the court where they are submitted, and b) to the territorial competence of the same court; in such case, the claims are to be examined following the same proceedings and no inconvenience is caused.

22. Are third parties allowed to fund litigation in your jurisdiction? If so, are there any restrictions on this and can third party funders be made liable for the costs incurred by the other side?

Not under the Greek procedural system.

23. What has been the impact of the COVID-19 pandemic on litigation in your jurisdiction?

The COVID-19 pandemic inevitably had a serious impact on the operation of the courts. Social distancing has positively contributed to the digitalization of the judicial system. A decisive step to that direction was the introduction of the new Article 122A of the GCCP, which gives the litigant parties the option to carry out the service of documents by electronic means, subject to

meeting certain procedural requirements, as well as the addition of the alternative of the electronic filing for documents, bearing an embedded electronic signature or stamp (in Article 119 GCCP). Additionally, the courts have developed a service providing electronic copies of their decisions, as well as the judicial documents submitted by the litigant parties, while legal practitioners became more familiar with the electronic submission of judicial documents addressed to the courts.

Last but not least, Law 4745/2020 on the acceleration of proceedings initiated by over-indebted individuals and the introduction of amendments to the Greek Lawyers' Code, provides that in exceptional circumstances, the conferences of Greek courts can be held remotely via technological means that ensure their secrecy, if due to insurmountable obstacles the participation of one or more judges in them is impossible.

24. What is the main advantage and the main disadvantage of litigating international commercial disputes in your jurisdiction?

Litigating commercial disputes in Greek jurisdiction is less costly in relation to most jurisdictions. On the other hand, the duration of proceedings may end up being rather extensive in some cases; however, the legislator has succeeded in accelerating the procedure before the courts of first instance with its latest reform of the GCCP.

25. What is the most likely growth area for commercial disputes in your jurisdiction for the next 5 years?

We anticipate seeing more disputes in areas affected by the aftermath of the economic crisis, such as litigation proceedings for the collection of non-performing loans being in the possession of the Greek banks or sold by said banks to third parties as part of their restructuring plan. On the other hand, there is a serious development of concession projects. Furthermore, the energy sector is constantly growing in a very competitive market. What is more, the rapid growth of internet poses serious challenges for the protection of intellectual property and personal data. In the same vein, the prospective introduction of artificial intelligence in various fields of every day life -with ChatGPT paving the way- is expected to lead to a revision of the concept of liability, as we know it.

As to the procedural alternatives for dealing with commercial disputes, the introduction of Law 5016/2023 regarding international commercial arbitration, which replaced -former- Law 2735/1999, may turn Greece into an attractive forum for international commercial arbitrations. Key innovations and amendments are introduced, modernizing the rules regarding the arbitration agreement, the composition and jurisdiction of the arbitral tribunal, the arbitration proceedings, the annulment and legal consequences of the arbitral award.

More precisely, the rule of arbitrability of all disputes is established, provided there is no explicit prohibition by law (article 3 par. 4). In the same "*in favorem arbitrandum*" approach, the Law aims to safeguard the substantive validity of the arbitration agreement, by deeming the arbitration agreement valid, as long as it meets the requirements of at least one of the following: the law the parties subjected the arbitration agreement to or the law of the seat of the arbitration or finally the law governing the parties' main agreement. As a result, a presumption in favor of the validity of the (arbitration) agreement is established.

Furthermore, the rule regarding the arbitral tribunal's power to order provisional measures is reformed and modernized in detail by article 25, in a manner that facilitates the requesting party. More specifically, article 25 sets the prerequisites for issuing provisional measures (urgent circumstances or prevention of imminent danger and presumption of the existence of the right to be secured) and clearly states that the arbitral tribunal is authorised to issue a provisional order, in extremely urgent circumstances. Said authorities of the arbitral tribunal were not provided in writing by former Law 2735/1999 and could only be deduced by interpretation.

Article 25 also facilitates the party requesting the ratification of provisional measures by the national courts, in comparison to former Law 2735/1999. According to the provisions of the new Law 5016/2023, the recognition or enforcement of provisional measures shall only be refused if the provisional measure ordered is contrary to international public policy or the national court has already taken action, following a relevant request for a similar provisional measure.

Moreover, notable amendments aiming to preserve the validity of the arbitral award have been introduced. According to article 43(5) of the new Law 5016/2023, the Court of Appeal may, upon request or *ex officio*, instead of annulling the arbitral award for a defect exposed in the former and may be remedied, refer the dispute back to the arbitral tribunal that issued the arbitral award, for the remedy of such defect. Additionally, the parties may waive at any time their right to apply for the arbitral award's annulment (article 43 par. 7). Last but not least,

in contrast to the former Law 2735/1999 and the GCCP which is applicable to domestic arbitrations, article 44 par. 2 of the new Law 5016/2023 expands the *res judicata* to the preliminary questions determined by the arbitral tribunal, provided that they are covered by the arbitration agreement.

Ultimately, the new Law 5016/2023 modernizes the national rules governing international commercial arbitration and thus aims to make the arbitral procedure in general more powerful and stable. Therefore, with Law 5016/2023 now in force, we anticipate that, in the coming years, parties of international profile are more likely to choose the arbitration procedure over traditional state court proceedings, in order to resolve their disputes.

26. What, if any, will be the impact of technology on commercial litigation in your jurisdiction in the next 5 years?

Technology has already contributed to the saving of time from the lawyer's point of view (electronic submission of judicial documents, on-line monitoring of the dockets, issuance of electronic copies of court decisions). The COVID-19 pandemic has led to a sharp rise in the use of e-governance services. With regard to the long-term repercussions of the pandemic on the judicial system, we expect a considerable expansion of remote procedures.

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