



EURAVOCAT LAW HANDBOOK

# DEBT COLLECTION IN GREECE

From our member in Athens



## 1. Amicable collections

### General information

If all amicable debt recovery actions have been exhausted (e.g. dunning letters by mail to debtors along with phone calls, emails and lastly court bailiff extrajudicial notice) without collecting the debt or reaching a settlement for payment instalments, one

should examine whether it would be worth pursuing legal action before the courts.

## 2. Research on the debtor

Apart from the General Commercial Register (GEMI) where all companies are registered, one can collect information on companies from data bases functioning on a fee basis for providing a company profile, legal representatives, financial statements, risk evaluation, credit limits etc.

Further investigation is done with the online cadastre (ongoing project which for the time being doesn't cover the entire Greek territory) which provides information on the possible real estate property, mortgages etc... of the debtor and its legal representatives (for personal companies).

## 3. Legal proceedings

Once it has been established that the debtor has assets, which could justify financing the judicial procedure, the following options are made available:

### 1. PAYMENT ORDER-EUROPEAN PAYMENT ORDER

This kind of rapid procedure may be used for undisputed debts. In such cases a debt acknowledgement document is needed, such as indicatively :

- debt acknowledgement document
- confirmation of accounts between the accounting departments of the debtor and the creditor

-commercial invoices of the creditor accompanied by CMR or other proof of delivery duly signed and sealed by the debtor's authorised representative.

If the above is available, then a payment order may be filed and a payment order is issued.

**Competent court:** The court of first instance of the seat of the debtor, unless there is proof of where the contract was entered into, in which case it can be filed also at that place. The same court is competent for issuance of an European payment order if the debtor is based in an EU-member state, which allows swift execution.

**Estimated time of issuance of a court ruling:** 50-60 days which may vary depending on the specifics of the case

**Appeal from the debtor:** after notification of the payment order by a court bailiff, the debtor has the right to file, within 15 days from the above date, a motion against the payment order and a request for suspension of execution. The delay for obtaining a judgment on the above motion is similar to the delay for ordinary lawsuits.

**Estimated cost:** stamp duty on the claimed amount, amounting to 8 per 1000 of the claimed amount, attorney's fee (to be agreed) and bar association duties, court bailiff fees (up to 150 EUR per notification). The above doesn't include execution costs, which vary depending on the type of forced execution selected and the value of the claim.

Judicial costs are adjudicated by the payment order.

**Statute of limitations:** 6 months for bounced checks, 3 years for bills of exchange, 5 years for claims from commercial invoices.

## 2. ORDINARY LAWSUIT

Following recent reform of the law, for ordinary lawsuits acc. to law 4335/2015 as amended by law 4842/2021, there are no oral

proceedings and the entire procedure is done on paper, in order to speed up the issuance of court rulings.

Once the lawsuit is filed, there is a 30-day deadline for notification and 90 days for each party (120 for foreign residents) from the above 30-day deadline to file merits. Parties may file rebuttal merits within an additional 15-day deadline.

The case file is assigned to a magistrate and a hearing date is set. On hearing date there are no oral proceedings and then the waiting period till issuance of the judgment.

Competent court: The court of the seat of the debtor, unless there is proof of where the contract was entered into, in which case it can be filed also at that place. Depending on the value of the dispute the following courts are competent:

Small claims court for claims up to 5.000 EUR -> the county court

For disputes from 5.001 up to 20.000 EUR -> the county court (justice of the peace)

For disputes from 20.001 up to 250.000 EUR -> the court of first Instance

For disputes from 250.001 EUR and above -> the multi-membered court of first Instance

Estimated time of issuance of a court ruling: 1,5-2 years

Appeal from the debtor: after notification of the court ruling, by a court bailiff, the debtor has the right to file, within 30 days from the above date, an appeal against the judgment and a request for suspension of execution if the ruling on the first degree if provisionally enforceable.

Estimated cost: stamp duty on the claimed amount, amounting to 8 per 1000 of the claimed amount, attorney's fee (to be agreed) and bar association duties, court bailiff fees (up to 150 EUR per notification). The above doesn't include execution costs, which

vary depending on the type of forced execution selected and the value of the claim.

Judicial costs are adjudicated by the court ruling.

Statute of limitations: 6 months for bounced checks, 3 years for bills of exchange, 5 years for claims from commercial invoices, 20 years for any claim for unjust enrichment.

### 3. INJUNCTION

Prior or after the lawsuit is filed, if the creditor has evidence that the debtor may be unable to pay its debt till issuance of an enforceable court ruling (payment order or judgment on ordinary lawsuit), or may alienate himself from important assets, a creditor may file an injunction request ordering a stay/ freezing the assets of the debtor up to the owed amount (plus reasonable additional expenses). The procedure is oral and the creditor has to produce a witness and evidence of the imminent danger and risk/emergency.

Competent court: The court of first instance of the seat of the debtor.

Estimated time of issuance of a court ruling: 2-5 months. For emergency cases a temporary injunction may be ordered within a few days from the filing.

Appeal from the debtor: after notification of the injunction ruling, by a court bailiff, the debtor has the right to file for revocation or reform of the injunction ruling, due to circumstances that the debtor has to prove.

Estimated cost: attorney's fee (to be agreed) and bar association duties, court bailiff fees (up to 150 EUR per notification). In such cases notifications may need to be made to banks etc, thus increasing the cost.

Judicial costs are adjudicated by the payment order.

#### 4. MANDATORY MEDIATION ATTEMPT

For disputes exceeding 30.000 EUR in value, law 4640/2019 provides that Parties are mandated to make an attempt to resolve their dispute by mediation.

The cost of mediation is agreed upon between the parties and the mediator and divided between the parties.

Attorney fees are also payable.

## 4. Interest

Delay interest is payable in all of the above cases, calculated from the date of the notification of the lawsuit, or the date mentioned in the court ruling or the payment order.

The amount is calculated in a platform available to lawyers in the Bar Association website.

Currently (May 2023) the delay interest as defined by law amounts to 9,75%.

## 5. Insolvency

### 1. Insolvency law

The new Greek insolvency law, 4738/2020 as amended by law 4818/2021, implements the directive (EU) 2019/1023, introducing a holistic approach to insolvency legislation in Greece and enables households and businesses to settle their debts, to the State, social insurance funds, banks, servicers and other private creditors.

Scope of the new platform is to provide participating creditors with a functional environment to formulate proposals for the settlement of a debtor's debts through a haircut or debt restructuring (thereby avoiding the risk of insolvency), either following the debtor's request or on the creditors' initiative.

## 2. Bankruptcy law

The Bankruptcy Law introduces two pre-bankruptcy proceedings for debt settlement. One is the new extrajudicial mechanism, where only financing institutions, the State and Social Insurance Funds participate.

### New Extrajudicial mechanism

The new extrajudicial mechanism replaces the previous OCW (out of court work out) provided in Law 4469/2017. It provides for a multilateral negotiation process between debtor and creditors. Only financing institutions (servicers and banks), the State and Social Insurance Funds can participate in the new extrajudicial mechanism. This is a strictly online and out-of-court process. The resolution process for an undertaking introduced by the Bankruptcy Law replaces the resolution agreement provided in Article 106b of the Bankruptcy Code, which applied previously. The Law on Bankruptcy provides for small-scale bankruptcies and other bankruptcies.

### Small-scale bankruptcies

According to the Bankruptcy Law on, small-scale bankruptcies include:

Undertakings falling under “micro entities” in accordance with the Greek Chart of Accounts (Article 2 of Law 4308/2014).

Individuals, natural persons, with assets amounting up to €350,000.

The District Court is the competent court.

A simplified procedure applies to small-scale bankruptcies.

### Other bankruptcies

According to the Bankruptcy Law on, other bankruptcies include:

Undertakings with sales, assets and employees that exceed the thresholds set for “micro entities”.

Individuals, natural persons, with asset amounting to over €350,000.

The Multi-Member Court of First Instance is the competent court. The Bankruptcy Law simplifies the procedure for small-scale bankruptcies, whether the debtor is an individual, or a business, legal or natural person.

For individuals, sole proprietorships and companies

For individuals, the simplified bankruptcy procedure replaces Law 3869/2010, which is repealed.

This simplified procedure also applies to “micro entities”, i.e. to companies or sole proprietorships.

In all cases, the District Court is the competent court (Article 172(2)).

Online procedure

The application for bankruptcy can only be submitted online, through the Solvency e-Register (Article 173(1)).

The procedure takes place strictly in writing, with no court hearing (Article 177).

Creditor rights

The creditors may also intervene online, requesting the rejection or the acceptance of the application.

The creditors may appoint a bankruptcy administrator of their choice. If they disagree, the administrator chosen by the creditor with the largest claim is appointed (Article 177(1)).

If one year has elapsed since the commencement of the simplified procedure and the bankruptcy has not concluded, the administrator must submit a report to the rapporteur. This report explains the reasons for the delay. If the rapporteur considers that the delay was unjustifiable, they replace the administrator (Article 188).



## Single bankruptcy

The Bankruptcy Law provides for a single bankruptcy procedure applying to all debtors: natural persons, sole proprietorships and companies. It introduces new features that protect security in rem, limit stay and facilitate auctions to avoid fruitless ones.

### Protection of security in rem (Article 101)

The Bankruptcy Law protects the privileges in rem:

Bankruptcy does not prevent secured creditors from accelerating enforcement of collateral (mortgage lien on property, pledges). Secured creditors may seize the encumbered asset within 9 months from bankruptcy.

If they do not accelerate enforcement within 9 months, the stay of individual enforcement actions applies to them too, and as a result their claims are satisfied by the same means as the other creditors.

### Limiting the stay (Articles 175, 101(3) and 79(1))

The Bankruptcy Law limits the stay:

It does not automatically provide for a stay once one files for bankruptcy. A stay may only be granted by virtue of a court order (preventive measures).

The stay does not apply to enforcement actions by secured creditors.

The stay only applies to secured creditors when the Court has ordered the liquidation of the entire business, provided that 30% of the total creditors, including 20% of the secured creditors, consents.

### Facilitating liquidation - Preventing fruitless auctions (Article 94)

The Bankruptcy Law provides for arrangements that prevent fruitless auctions:

If the 1st auction is fruitless, a new auction takes place within 20 business days, starting at 75% of the average value of the

valuations provided by the certified valuers hired by the administrator to determine the starting bid.

If the 2nd auction is also fruitless, a 3rd auction takes place starting at 50% of the average value of the valuations provided by the certified valuers hired by the administrator to determine the starting bid (within 20 business days).

If the 3rd auction is also fruitless, the administrator, without delay, submits an application to the rapporteur for decreasing the starting bid or for approving terms that will facilitate the liquidation of the asset. The application may also include a request to find individual buyers to liquidate the asset based on a predefined price or to conduct an audit of the legal or real situation. The rapporteur decides on the administrator's application by reasoned order. This order cannot be appealed. The rapporteur issues their order within 30 days from the date the administrator submitted the application.

If liquidation has not been achieved within 120 days from the issue of the rapporteur's order, an auction takes place with no starting bid. If liquidation is again not achieved:

If the debtor is a legal person, the asset is transferred to the State by order of the rapporteur following the administrator's proposal.

If the debtor is a natural person, the asset is transferred to the debtor, unless there are amounts due to the State or Social Insurance Funds. If there are such amounts due, ownership of the asset is transferred to the State by way of order of the rapporteur following the administrator's proposal. This order is registered, with the administrator's diligence, to the competent Cadastral Office, Land Registry, Shipping Register or other public register, as required.

Key features of the new extrajudicial mechanism

Scope

**Debts:** The new extrajudicial mechanism procedure applies only to debts to financing institutions (servicers and banks), the Greek State and Social Insurance Funds. It does not apply to other creditors, e.g. employees, suppliers etc.

**Entering a restructuring agreement**

A restructuring agreement is entered into if financing institutions representing a minimum of 60% of the claims against the debtor, including a minimum of 40% of the secured claims, consent to the settlement.

## 6. Documentation

To lodge a claim one should produce:

- A power of attorney (notarised with apostille);
- Certified/original copies of invoices;
- Original bank check/letter of exchange;
- An updated statement of the debt account;
- Any documents signed by the debtor, in which the debtor acknowledges the debt
- Further documentation may be needed, such as excerpts from the commercial register of the creditor, depending on the procedure.

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