

2016

# GREEK LAW DIGEST

The Official Guide to Greek Law

[www.greeklawdigest.gr](http://www.greeklawdigest.gr)

## A.S. Papadimitriou & Partners Law Firm

ENFORCEMENT OF DOMESTIC JUDGMENTS  
IN CIVIL AND COMMERCIAL MATTERS

WILLS AND ESTATES DISPUTES

MUTUAL FUNDS - PORTFOLIO INVESTMENT  
COMPANIES - VENTURE CAPITAL

SHARE TRANSFER DEALS

COPYRIGHT LAW

DOUBLE TAXATION AVOIDANCE

T  
N  
I  
R  
P  
F  
F  
O

2nd EDITION



NOMIKI BIBLIOTHIKI

### Editor-in-chief:

Geena Papantonopoulou (geenap@nb.org)

### Editor:

Marina Tsikouri (marinat@nb.org)

### Business development managers:

Georgia Siakandari (georgias@nb.org)

Juliana Berberi (juliber@nb.org)

### Art Director:

Theodoros Mastrogiannis (mastroth@nb.org)

### Creative Director:

Andreas Menounos (andreasm@nb.org)

### Desktop Publishing - Films:

Yannis Dedousis (yannisd@nb.org)

GREEK LAW DIGEST

ISSN 2241-133X

www.greeklawdigest.gr

NOMIKI BIBLIOTHIKI SA, © 2016

### Greek Law Digest (GLD)

Greek Law Digest - The Official Guide to Greek Law is the most systematic and comprehensive guide on the Greek legal and institutional framework, written entirely in English. Its objective is to provide reliable information to any foreign natural person or legal entity wishing to know the operating framework of the Greek legal system. The concise and comprehensible content of this publication is organized through short questions covering the whole range of issues that citizens of other countries might raise with respect to the law applicable in Greece and simple and simultaneously detailed answers. The Greek Law Digest is available in hard copy and on CD-ROM, whereas the website [www.greeklawdigest.gr](http://www.greeklawdigest.gr) is freely accessible with more than 100,000 visits from 190 countries around the world. Greek Law Digest is offered to all foreign diplomatic authorities in the country, all Greek diplomatic authorities abroad, to various financial and investment organizations and associations, to international authorities and institutions that are considered appropriate for the accomplishment of its objective. It is also offered to foreign partners during their official visits to the country as well as during the official Greek trade missions abroad through the Ministry of Economy, Development and Tourism and Enterprise Greece. The Guide is published on the initiative of NOMIKI BIBLIOTHIKI under the auspices of: Ministry of Economy, Development and Tourism, Enterprise Greece, ACCI and Hellenic Republic Asset Development Fund. Greek Law Digest is already acknowledged by foreign and Greek professionals, foreign diplomatic representatives and foreign officials, state authorities and business associations as the most trustworthy and thorough legal guide ever existing for Greek legal and regulatory issues and continues to receive generous tributes.



NOMIKI BIBLIOTHIKI

23, Mavromichali Str., 106 80 Athens Greece  
Tel.: +30 210 3678 800 • Fax: +30 210 3678 857  
e-mail: [info@nb.org](mailto:info@nb.org) <http://www.nb.org>



Greece General Information .....	24
Useful Insights of the Greek Economic Environment .....	27
Visa & Residence Permits Information .....	48
Judicial System .....	53
Alternative Dispute Resolution - Mediation .....	127
Aspects Of Greek Civil Law .....	139
Citizens & The State .....	175
Business Entities .....	185
Finance & Investment .....	233
Capital Markets .....	327
Mergers & Acquisitions .....	341
Financial Contracts .....	367
Financial Tools .....	387
Competition .....	399
Industrial & Intellectual Property Rights .....	437
Shipping .....	471
Transportation .....	501
Private Insurance .....	521
Insolvency- Bankruptcy .....	533
Tourism .....	553
Technology-Media-Electronic Communications - Internet .....	565
Energy- Minerals .....	613
Physical & Cultural Environment .....	647
Real Estate .....	701
Health & Life Sciences .....	737
Consumer Protection .....	761
Data Protection .....	773
Games Of Chance .....	787
Sports .....	799
Employment .....	811
Foreign Citizens & Immigrants .....	827
Exports/Imports/Customs .....	831
Tax .....	835
Related Information .....	880

Published under the Auspices of



# GREEK LAW DIGEST

## ■ JUDICIAL SYSTEM



NOMIKI BIBLIOTHIKI

# ENFORCEMENT OF DOMESTIC JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS

Alexandros Dovles, *Attorney at Law, LL.M.*  
Partner at **A.S. Papadimitriou & Partners Law Firm**

## I. GENERAL INTRODUCTION

### Which are the sources of Greek Enforcement Law?

Greece has a statutory legal system. The *corpus* of Greek Law regarding Enforcement of Judgments is in the Eighth Book of the Greek Civil Procedure Code (Art. 904-1054), which includes provisions on the methods and means of enforcement, as well as rules applicable to each. Some special laws introduce specific provisions for the enforcement of domestic Judgments based upon the nature of the creditor. The most notable and important special laws are:

- the Code of Collecting Public Revenue (Legislative Decree 356/1974) which applies when the Greek State is the Creditor/Claimant.
- Legislative Decree of 17.07.1923 which applies when the Creditor/Claimant is either a Bank operating in Greece or a corporation (Greek Société Anonyme or foreign company) that has acquired a special licence from the Greek State.

It should be noted that the Greek Enforcement Law recently went under a major overhaul (Law 4335/2015) which came into force on 1.01.2016. The expressed aim of this amendment is to speed up enforcement by simplifying the execution proceedings and by consolidating the judicial review procedure.

### Which is the subject matter of the Greek Enforcement Law?

The subject matter of the Greek Enforcement Law covers two main categories:

- The general requirements to every Enforcement procedure.
- The Enforcement proceedings *per se*, which differ depending on the nature of the creditor's claim.
- Judicial Review of the Enforcement procedure

## II. GENERAL REQUIREMENTS

### Which are the general requirements for Enforcement?

Any Enforcement has to meet specific criteria regarding: (a) the executory title, (b) the enforced claim and (c) the parties to the Enforcement.

### What are executory titles?

Executory titles are the documents that incorporate claims capable of being materialized through enforcement proceedings. Executory titles include (Art. 904 Civil Procedure Code):

(a) Domestic Judgments, (b) Arbitral Awards, (c) Settlements and Court Costs allocations ratified by Greek Courts, (d) Notarial documents, (e) Orders of payment rendered by Greek judges, (f) Enforceable foreign titles (including foreign Judgments and foreign Arbitral Awards), (g) Other orders or acts deemed enforceable by statute.

### Under which conditions does a domestic Judgment constitute an executory title, i.e. is *per se* enforceable?

A domestic Judgment falls under the category of executory title when:

- **The Judgment orders some kind of performance** by the Claimant, i.e. the Judgment grants to the Claimant coercive relief. On the other hand Declaratory Judgments, which merely declare the existence or non-existence of a legal relationship, as well as Constitutive Judgments, which *per se* create or modify legal relationships (e.g. Divorce Judgment), do not constitute executory titles and are thus excluded from Enforcement.
- **The Judgment is Final**, i.e. the Judgment is not subject to ordinary methods of review (e.g. Appeal) and thus it is a formal *res judicata*.
- **Non-Final Judgments are by default non-enforceable** and they do not fall under the category of Executory Title. However, **non-Final Judgments** can be declared as **provisionally enforceable** by an explicit court order under certain conditions (Art. 907-914 Civil Procedure Code). On some occasions, i.e. claims regarding (a) return of possession in leased chattel/premises by the lessee, (b) overdue rent, (c) bills of exchange, promissory notes and cheques, (d) overdue salaries and (e) maintenance (e.g. alimony, child support etc), the declaration of provisional enforceability is obligatory for the court (Art. 910 Civil Procedure Code). The provisional enforceability can be suspended by means of a Court Order provided that the non-Final, provisionally enforceable Judgment has already been admissibly contested with an opposition against default or with an appeal (Art. 912 Civil Procedure Code).

### Which claims can be enforced?

Any pecuniary or non-pecuniary claim that has been granted by Court can be enforced provided that (negative prerequisites):

- The claim **does not depend on a suspensive condition or a term** (Art. 915 Civil Procedure Code). In case that the claim is depended on conditions, such must be proven by documents.
- The claim has been **definitely defined** in quantity and quality by the Executory Title (Art. 916-917 Civil Procedure Code).

### Who is party to the Enforcement procedure?

Entitled to the Enforcement of a Judgment are (Art. 919 and 921 Civil Procedure Code): (a) the Claimant, (b) his heirs and (c) his successors.

Subject to the Enforcement of a Judgment are (Art. 919-921 Civil Procedure Code): (a) the Defendant, (b) his heirs and (c) his successors, (d) general partners in case the Defendant is a partnership.

## Can a Judgment against the Greek or a foreign State be enforced?

Yes. In general any Judgment can be enforced against any private (but not public e.g. public buildings) assets of the Greek State.

Any Enforcement against a foreign State requires the prior consent of the Greek Ministry of Justice (Art. 923 Code of Civil Procedure).

## III. ENFORCEMENT PROCEEDINGS IN GENERAL

### Which are the main Stages of the Enforcement proceedings?

The main stages of the Enforcement proceedings include: (a) **Initial Proceedings**, which are common in every Enforcement procedure and (b) **Main Proceedings**, which differ according to the nature of the claim.

### Are the Methods of Enforcement common for all Claims?

No. Greek Law provides for several methods of execution primarily based on the nature of the creditor's claim. Each of these methods is activated by special means, applied to the particularities of the enforced claim. The main distinction is made between non-pecuniary and pecuniary claims. A common but nevertheless subsidiary method of Enforcement is the Oath of Manifestation, which is available upon failure of the other enforcement proceedings: In case that the creditor is not able to satisfy his pecuniary or non-pecuniary claim through the main proceedings, the debtor may be forced by Court to take an oath regarding the location and the value of his property. Failure to take such oath or perjury may result in imprisonment.

## IV. INITIAL PROCEEDINGS

### What is required for the commencement of an Enforcement Procedure?

The commencement includes the following:

- The creditor must obtain a **certified copy of the enforceable instrument** (i.e. Judgment) from the competent authorities (i.e. Judge). The certified copy bears the **executor formula**, i.e. an official command addressed to the organs of enforcement in the name of the Greek people to execute the instrument (Art. 918 Civil Procedure Code).
- The creditor must pay fees for the issuance of the above certified copy, equal to 1.5%-3.6% of the total amount of the Claim, depending on its nature (i.e. commercial, civil etc).
- The creditor must serve the debtor with a certified copy of the Judgment along with a **formal notice** inviting him to **voluntary execution** within a term of three working days. The creditor is not allowed to proceed with any other enforcement measures during the above term. This service marks the official commencement of the Enforcement proceedings (Art. 924 and 926 Civil Procedure Code).
- Anytime between three working days and one year after the service of the formal notice to the debtor, the creditor may initiate the main phase of the enforcement proceeding by **officially instructing an organ of execution (bailiff)** to proceed with enforcement

(Art. 927 Civil Procedure Code). This marks the commencement of the main phase of the enforcement procedure.

## V. MAIN PROCEEDINGS FOR NON-PECUNIARY CLAIMS

### Which are the Methods of Enforcement for non-pecuniary claims?

The Greek Law follows the principle of execution *in natura*, which in effect results in specific performance. The main methods of enforcement for specific performance are:

- **Obligation to deliver a particular movable thing or fungible goods** (Art. 941-942 Civil Procedure Code).

Procedure is carried out exclusively by a bailiff, without any judicial intervention. The bailiff is vested with the authority to dispossess the debtor of his possession and put the property/goods in the possession of the creditor.

In case that a movable thing is not found in the place of execution, the debtor is obliged to take a relevant oath of manifestation, certifying that he/she is neither in possession nor aware of the location of the object.

In case that fungible goods are not found in possession of the debtor, the creditor may claim compensation for non-performance.

- **Obligation to deliver specific immovable property/aircraft/ships** (Art. 943 and 944 Civil Procedure Code).

Procedure is carried out exclusively by a bailiff, without any judicial intervention. The bailiff is vested with the authority to dispose the debtor of his possession and put the property in the possession of the creditor.

- **Obligation to deliver a child** (Art. 950 Civil Procedure Code).

These rules apply when the debtor is obliged to deliver to the creditor a child based on a family law claim (e.g. parental care or custody). In case the debtor refuses to deliver the child, the former may be fined with an amount up to 100,000 €. In case the child is not found in the place of execution, the debtor is obliged to take a relevant oath of manifestation, certifying that he/she is not aware of the location of the child.

- **Obligation to perform a specific fungible act** (Art. 945 Civil Procedure Code).

These rules apply when the debtor is obliged to perform an act that can be performed from a third party. In case that the debtor does not perform the act, the creditor is entitled to have the act performed by any third party, on the expense of the debtor (substitute performance). In such a case the creditor may seek reimbursement for the relevant expenses through a separate claim against the debtor, which will be enforced as any other pecuniary claim. Furthermore, the court may, at the creditor's request, specify in advance, i.e. upon ordering the performance of the specific fungible act, the expenses of a substitute performance, so that the creditor will not need to raise a separate claim.

- **Obligation to perform a specific infungible act** (Art. 946 Civil Procedure Code).

These rules apply when the debtor is obliged to perform an act which cannot be performed by third parties (personal obligations such as a performance from a renowned artist, disclosure of information etc). The court that ordered the specific performance

of the infungible act must also order, in case that the debtor does not abide by the Judgment, (i) the payment of a fine up to 50,000 € in favour of the creditor and (ii) the debtor's imprisonment up to a year.

Enforcement for infungible acts is expressly excluded for (a) the restitution of marital cohabitation, (b) in case that the debtor's refusal to perform the act is based on a reasonable cause.

- **Obligation to tolerate or omit a certain act** (Art. 946 Civil Procedure Code)

These rules apply when the debtor is obliged to perform an act that cannot be performed by third parties (personal obligations such as a performance from a renowned artist, disclosure of information etc). The court that ordered the specific performance of the infungible act must also order, in case that the debtor does not abide by the Judgment, (i) the payment of a fine up to 50,000 € in favour of the creditor and (ii) the debtor's imprisonment up to a year.

- **Declaration of will** (Art. 949 Civil Procedure Code)

In some cases a Judgment may order a debtor to provide a declaration of will regarding a contract (in practice to accept an offer to a contract). The most common application of this rule is the cases where one party seeks to enforce a preliminary contract that aims at the formation of a final contract.

As soon as such Judgment becomes *res judicata*, the Debtor is deemed to have accepted the contract and the creditor may initiate Enforcement which results in the formation of the sought final contract.

## VI. MAIN PROCEEDINGS FOR PECUNIARY CLAIMS

### How can a pecuniary claim be enforced?

Any money claim can be satisfied through forced liquidation of the debtor's assets.

### Can other creditors participate in the proceedings for pecuniary claims?

Yes. Other creditors with mature claims can join the process of forced liquidation by announcing their claim to the competent notary public who is administering the public sale and are then entitled to participate in the distribution of the proceeds. Other creditors may also intervene in any Judicial Review process or even take the initiative of the Enforcement proceedings in case that the leading creditor abandons the process.

### Which are the stages for the Enforcement for pecuniary claims?

The main stages are:

- Attachment of assets
- Intervention of other creditors
- Liquidation of assets-public auction
- Distribution of proceeds



## What kind of assets can be attached?

Almost any type of asset can be attached. The main categories include:

- **Movable property** (Art. 953 Civil Procedure Code).

Any kind of movable property in the possession of the debtor can be attached. However movable property which (a) is absolutely necessary for the sustenance of the debtor and his family and/or (b) is necessary for the practice of a profession/ for labour of any debtor who thus earns his living, is exempt from attachment.

The attachment procedure includes dispossession of the debtor by a bailiff and delivery of the property to a custodian until liquidation.

- **Immovable property/Ships/Aircrafts** (Art. 992 et seq. Civil Procedure Code).

Subject to attachment are (a) any immovable property, ships/aircraft owned by the debtor and (b) any other *in rem* rights of the debtor over immovable property, provided that the former may be separated from ownership (e.g. usufruct).

The attachment procedure includes drafting of a formal legal document by a bailiff (writ of attachment) which is then transcribed in the relevant land registry or cadastre. The immovable property/ *in rem* right is put into custody until liquidation.

- **Claims and movable property in the possession of a third party (Garnishment)** (Art. 982 et seq. Civil Procedure Code).

Any claims that the debtor has towards third parties (e.g. bank deposits, owed fees-rents etc) may be attached through garnishee proceedings. The same applies for movable property owned by the debtor but in the possession of a third party. Expressly excluded from garnishment are certain claims necessary for the sustenance of the creditor (e.g. wages, pension etc) provided that the creditor's own sustenance is not in danger (e.g. claim for maintenance-child support etc).

Garnishee proceedings are initiated by the creditor who can serve through a bailiff to any third party a relevant official document, by virtue of which the latter is requested to disclose before Court any relevant claims/movable property owned by the debtor. In such a case the third party is prohibited from disposing of the attached claim/movable property also for dematerialized securities traded in a market, e.g. paperless shares, paperless bonds etc. However paper securities, including paper registered shares (see Art. 2 para 1 Law 1818/1951) follow the rules of attachment of movable property

- **Other Assets** (Art. 992 et seq. Civil Procedure Code).

Assets that cannot be attached through any of the above methods (e.g. intellectual property rights, patents, etc) can be attached through a special court order, which specifies all the suitable means for effectuating attachment and liquidation.

## What is the process for liquidation?

Liquidation is effectuated primarily through a public sale procedure which is administered by a notary public. Public sales are conducted in the local district civil court every Wednesday, except for August. The procedure involves a bidding process with, mainly, sealed offers in writing. The highest bidder is determined in an official document drafted by the notary

public (adjudication act) and constituting an executory title. Ownership passes to the highest bidder as soon as the property is either delivered to him (movables) or the adjudication act is transcribed in the relevant public registry (immovables/ships/aircrafts).

### How are the proceeds distributed?

The proceeds are distributed to all the creditors who participated in the liquidation process.

In case that the proceeds, after deducting the costs and expenses of the enforcement proceedings, are less than the total claims of the participating creditors, then they are proportionally distributed. However certain categories of creditors have priority over the proportional distribution as follows:

- Claims for wages and personal maintenance, claims of the State and of other public entities have a minimum priority on 25% of the total proceeds.
- Secured claims (mortgage, prenotation of mortgage, pledge) as well as claims regarding the maintenance of the property have a minimum priority on 65% of the total proceeds.
- Unsecured claims have a minimum priority on 10% of the total proceeds.

### Does the Greek Enforcement Law provide for debtor's imprisonment for failure of payment?

Yes but on a limited scale. Imprisonment is expressly excluded for failure to meet contractual obligations and is practicably limited to tort case. Imprisonment can be ordered only by a special court judgment (Art. 1047 et seq. Code of Civil Procedure).

### Does the Greek Enforcement Law provide for receivership?

Yes. Receivership, i.e. compulsive administration by a third party, is possible for any immovable property or business owned by the debtor. Receivership can be ordered only by a special court judgment (Art. 1047 et seq. Code of Civil Procedure). In practice receivership is rare because of the prior application of bankruptcy proceedings.

## VII. JUDICIAL REVIEW

### Can the Debtor contest the Enforcement proceedings?

Yes. The Debtor is granted with a general legal remedy known as Opposition to Enforcement (Art. 933 Civil Procedure Code). The grounds of Opposition to Enforcement may include: (a) inefficiencies of the executory title, (b) irregularities in the execution proceedings and (c) objections referring to the creditors' right to enforcement. It should be noted that an Opposition to Enforcement is inadmissible to the extent that it includes objections that fall under the *res judicata* of the enforced Judgment. Furthermore an Opposition to Enforcement is subject to strict time and procedural restrictions. An Opposition to Enforcement follows simplified procedural rules which aim at a quick resolution of any relevant disputes so as not to stall the Enforcement proceedings. A successful Opposition to Enforcement leads to cancellation of all the Enforcement proceedings and gives a right to the Debtor

to request the reinstatement of any property affected by the Enforcement (Art. 914 Civil Procedure Code).

### Can the Debtor suspend the Enforcement proceedings?

Yes. The Debtor may request suspension of the Enforcement proceedings from the competent court. However it should be noted that the Debtor's right to request suspension has been significantly restricted by the latest amendment of the Civil Procedure Code with the expressed aim to speed up the Enforcement process.

### Can third parties contest the Enforcement proceedings?

Yes. Any third party affected by the Enforcement proceedings (e.g. the creditor attaches movable property that is in the possession of the Debtor but that owned by a third party) has the right to oppose the Enforcement with a relevant legal remedy. (Art. 938 Civil Procedure Code).

## A.S. PAPADIMITRIOU & PARTNERS LAW FIRM

**MACEDONIA BUILDING  
367, SYNGROU AVENUE  
P. FALIRO, ATHENS 175 64**

**Tel:** +30 210 9409 960/961/962/042

**Fax:** +30 210 9409 043

**E-mail:** [office@saplegal.gr](mailto:office@saplegal.gr)

**Url:** [www.saplegal.gr](http://www.saplegal.gr)

#### **Languages**

Greek, English, French, German

**Number of lawyers:** 14

### AREAS OF PRACTISE

**Dispute Resolution**

**Venture Capital, Private Equity  
and M&A**

**Corporate and Commercial**

**Banking, Finance and Capital  
Markets**

**Real Estate and Property  
Development**

**Ship Finance and Acquisitions**

**Foundations and Trusts**

**Estate planning, family and  
inheritance**

**Health and Medical Malpractice**

**Intellectual Property and  
Personal Data Protection**



# GREEK LAW DIGEST

## The Official Guide to Greek Law

[www.greeklawdigest.gr](http://www.greeklawdigest.gr)

### COPYRIGHT

The content of this Guide is copyright of NOMIKI BIBLIOTHIKI S.A. Copying of part or all of the content of the Guide in any form is prohibited other than that in accordance with the following permission: a) you may copy pages from the Guide for your personal use only, b) you may recopy extracts from the Guide to individual third parties for their personal information, but only if there is acknowledgment to NOMIKI BIBLIOTHIKI S.A. as the copyright owner of the Guide.

### DISCLAIMER

The content of this Guide is intended for information purposes only and should not be treated as legal advice. The publication is necessarily of a general nature; NOMIKI BIBLIOTHIKI S.A. makes no claim as to the comprehensiveness or accuracy of the Information provided; Information is not offered for the purpose of providing individualized legal advice. Professional advice should therefore be sought before any action is undertaken based on this publication. Use of this Guide does not create an attorney-client or any other relationship between the user and NOMIKI BIBLIOTHIKI S.A. or the legal professionals contributing to this publication.

- ✓ **For more information** about Greek Law Digest, or to **order a copy** of the publication, please visit [www.greeklawdigest.gr](http://www.greeklawdigest.gr)
- ✓ **To purchase books** from NOMIKI BIBLIOTHIKI, please visit [www.nb.org](http://www.nb.org)