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One law to rule them all: The new legal framework for the establishment and enforcement of pledges in Greece

November 18, 2024

One law to rule them all: The new legal framework for the establishment and enforcement of pledges in Greece

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Introduction

On July 19, 2024, the Greek Parliament enacted Law No. 5123/2024 titled *“Modernisation of the legislative framework for pledges and establishment of a unified electronic pledge registry on moveable property, claims, and other rights and other provisions”* (the **“Law”**). This piece of legislation aims to modernize the creation, perfection and enforcement of security interests taking the form of a pledge in Greece and to form a unified and cohesive legal framework surrounding all types of such security. The new law includes provisions with regard to all aspects of pledges, from establishment to enforcement, while also instituting a unified electronic pledge registry (the **“Electronic Pledge Registry”**), designed to streamline the registration of pledge rights and thus the perfection of such security rights.

Establishment of pledge

Under the Law, pledges are created through: (i) a private agreement or an electronic document with qualified e-signature (or issued through gov.gr) between the pledgor and the pledgee; and (ii) a subsequent registration with the Electronic Pledge Registry by either party to the pledge agreement. This applies to all types of pledges, including pledges over claims, shares and other forms of corporate participations, as well as over moveable assets without delivery (**“notional pledge”** & **“floating charge”**).

Pledges over claims

Specifically in relation to pledges of claims, the agreement of the parties must have a certain date (e.g. through service by a court bailiff).

A notable exception applies in case of a pledge over bank accounts if the account bank is also the pledgee, in which case no registration is required. It remains to be seen whether such provision, while supporting banking confidentiality, may reduce transparency for third-party creditors, who are not aware if there is a pre-existing pledge over a bank account to be pledged by such third party creditor(s).

Notification to the debtor

The pledge agreement should be notified to the debtor of the pledged claims, unless such debtor is also a party to the pledge agreement or the debtor is also the pledgee or the secured creditor. Such notice may be made not only by service of process via court bailiff but also through electronic means constituting a durable medium (*stathero meso* in Greek) of the debtor as defined in the Law, including e-mail. The legal consequences of the created security start as follows:

- towards the pledgor: from the date of the pledge creation;
- towards the debtor: from the date of the pledge notification to the debtor; and

- towards third parties: from the date of the pledge registration in the Electronic Pledge Registry.

Pledges over registered shares and other forms of corporate participations

Following the establishment of the pledge, the Law provides for the registration of such pledge with the shareholders' book and the respective annotation of the share certificates. Such registration and annotation serve only as supplementary evidence and does not affect the establishment and validity of the pledge. Notification of the pledge to the company is not a requirement as per the Law.

In contrast to the previous legal framework, delivery of the share certificates to the pledgee is mandatory only if the pledgee so requires. This stipulation provides flexibility in possession requirements and may facilitate the operation of companies with pledged shares. Furthermore, the Pledgor retains and is entitled to exercise its voting rights and any further non-pecuniary rights, unless otherwise agreed in the pledge agreement, thus safeguarding operational control for shareholders in the pledge arrangements.

Notional pledge & floating charge

The pledge becomes valid against third parties upon its registration with the Electronic Pledge Registry and no additional actions are required in relation to its perfection.

Assignment by way of pledge

What is worth highlighting is that this new law explicitly allows the parties of a pledge over rights and claims to agree that the pledge also entails an assignment of the rights and claims by way of pledge to the pledgee, from the time of its establishment, until the secured claim has been fully repaid. In this case, article 39 of the legislative decree 17.07/13.08.1923 "*on special provisions on sociétés anonymes*", which provides for an assignment of the pledged claims to the pledgee

upon creation of the pledge and re-assignment *ipso iure* upon due repayment of the secured claims, will apply. Although the effect of the assignment by way of pledge was in practice implemented in most of the security agreements with credit institutions as pledgees in line with the applicable provisions of the above legislative decree, the new law is now expanding the effect of the assignment by way of pledge from credit institutions to all entities acting as pledgees and all underlying secured claims regardless of the underlying cause of the secured claims, provided that this has been agreed in the pledge agreement.

Enforcement

Enforcement generally follows the provisions of the Greek Code of Civil Procedure, as applicable, subject to any provisions governing specific types of security (such as law 3301/2004 on financial collateral).

In case of pledges over claims, the Pledgee is entitled to collect on its own account, without taking any further enforcement action, the pledged claims, after the lapse of 10 business days from the day on which such claim against the pledgor becomes, in whole or in part, due and payable. In case the security claim expires prior to the expiry of the pledged claim, the pledgee is entitled to collect the pledged claim as stipulated under articles 1252 and 1253 of the Greek Civil Code.

Pledges over shares are enforced in accordance with the process related to public auctions for movable assets, requiring an enforceable title and independently of possession of share certificates by the pledgee. This means that in case of a capital increase in the company which has issued the pledged shares the pledge is automatically extended to the new shares without the need for delivery of new shares certificates to the pledgee and annotation of the new shares with the pledge, provided that such extension of pledge is registered with the Electronic Pledge Registry.

The Law makes it clear that the privileges granted by the legislative decree 17.7/13.08.1923 "*on special provisions on sociétés anonymes*" remain in force. This means that all pledgees in pledge agreements governed by the said legislative decree do not need an enforcement title to initiate enforcement procedures. The only requirement is the service of an order for payment and the setting of a deadline for the auction of the pledged assets.

With respect to notional pledges governed by Law 2844/2000, if specified in the agreement, enforcement (pursuant to article 40 of the legislative decree 17.07/13.08.1923 "*on special provisions on sociétés anonymes*") may take place without a court order, provided that both parties in the pledge agreement qualify as businesses or professionals and the pledge serves the needs of the debtor's business or profession.

The Electronic Pledge Registry

The Law introduces a transformative legal mechanism in the form of the Unified Electronic Pledge Registry, which will be controlled by the Hellenic Cadastre. This online public service, accessible through gov.gr, will centralize the register of pledges, enhancing the transparency and security of transactions. As a centralized registry, the Electronic Pledge Registry will provide public access to unified records, reinforcing transaction integrity and enabling easier verification of registered pledge rights.

Once the Electronic Pledge Registry is operational, the registration of all aforementioned pledges, amendments, and releases will become mandatory. This requirement extends to various secured transactions, such as the registration of a) the pledge agreements regarding moveable property, claims and other rights as well as amendment or release thereof, b) agreements required to be registered according to Law 2844/2000, c) any true sale securitization transactions and servicing agreements, as specified in Article 10 of Law 3156/2003 as well as

their amendments including their release, d) direct sales and servicing agreements for non-performing loans (NPLs), according to Law 5072/2023 as well as their amendments including their release, and e) any act for which publication in the books of the Cadastre is required, including the judgments declaring bankruptcy, based on article 85 of Law 4738/2020. Taking into consideration the above, the new Registry aims to streamline transaction records and improve data accessibility across a broad spectrum of financial and commercial activities.

Upon commencement of the Electronic Pledge Registry's operation, the existing systems, such as the Publication Registration Protocol under paragraph 2 of Article 9 of Law 4512/2018, as well as the current pledge registration systems in the Land Registries, will be replaced. Pre-existing records in these registries will remain valid and will continue to be maintained by the relevant public authorities, ensuring the integrity of previously registered agreements.

In summary, the Electronic Pledge Registry purports to centralize and modernize pledge record-keeping while maintaining the validity of legacy records, thus bridging traditional and digital frameworks within Greece's legal infrastructure for secured transactions.

Entry into force

The effective date of the Law is tied to the formal commencement of the Electronic Pledge Registry, managed by the Hellenic Cadastre, such that the law is to come into force upon the earlier of (i) the date of publication of the decision of the Hellenic Cadastre that the Electronic Pledge is operational and (ii) December 31st of 2024. The pledges established prior to the Law's entry into force will continue to be governed by the provisions applicable at the time of such establishment and no registration of such pledges will be required.

Abolished provisions

Upon the entry into force of the Law, the provisions of the following existing Greek laws are abolished:

- a) Articles 1244, 1247 and 1248 of the Greek Civil Code on pledges over securities to the bearer, rights and claims;
- b) Article 36 of the legislative decree 17.7./13.8.1923 on the establishment of pledges and the requirement for the payment of a stamp duty;
- c) Articles 2 par.1 and 3 of the mandatory Law 1818/1951 on seizure of and pledges over registered shares in case one of the parties to the pledge agreement is a bank or a legal entity or a stockbroker; and
- d) Articles 1, 3, 4, 5, 10, 11, 13 par.1 and 2, 14 and 15 of the Law 2844/2000, mainly in relation to the establishment and registration of notional pledges, pledge and assignment of business claims and other rights.

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