

Government Investigations

in Greece

Report generated on 17 February 2021

Table of contents

ENFORCEMENT AGENCIES AND CORPORATE LIABILITY

Government agencies
Scope of agency authority
Simultaneous investigations
Civil fora
Corporate criminal liability
Bringing charges

INITIATION OF AN INVESTIGATION

Investigation requirements
Triggering events
Whistle-blowers
Investigation publicity

EVIDENCE GATHERING AND INVESTIGATIVE TECHNIQUES

Covert phase
Investigation notification
Evidence and materials
Providing evidence
Employee testimony
Sharing information
Investor notification

COOPERATION

Notification before investigation
Voluntary disclosure programmes
Timing of cooperation
Cooperation requirements
Employee requirements
Why cooperate?
Privileged communications

RESOLUTION

Resolution mechanisms

Admission of wrongdoing

Civil penalties

Criminal penalties

Sentencing regime

Future participation

UPDATES & TRENDS

Key developments of the past year

Coronavirus

Contributors

Greece



Ioannis Giannidis

igiannidis@iglawfirm.gr

Ioannis Giannidis Law Firm



Natasha Kaisari

nkaisari@iglawfirm.gr

Ioannis Giannidis Law Firm



Panagiotis Koureleas

pkoureleas@iglawfirm.gr

Ioannis Giannidis Law Firm

ENFORCEMENT AGENCIES AND CORPORATE LIABILITY

Government agencies

What government agencies are principally responsible for the enforcement of civil and criminal laws and regulations applicable to businesses?

The Greek Constitution acknowledges the separation of the judiciary from the legislative and executive powers. Courts are classified as administrative courts (dealing with administrative disputes arising from the actions or omissions of the administration), civil courts (handling mainly private disputes between citizens) and criminal courts (dealing with the commission of criminal offences, criminal proceedings against the alleged perpetrator and the imposition of criminal sanctions on the convicted defendant).*

The competent authorities for investigating cases involving serious fraud, bribery, money laundering offences and similar misconduct and imposing the corresponding penalties on businesses or individuals are either the criminal or the administrative authorities.

The enforcement of criminal laws is entrusted to prosecutors, investigating judges and criminal courts. In general, criminal proceedings for serious offences – such as fraud, corruption, money laundering and criminal tax cases – start with a preliminary inquiry ordered by a prosecutor and conducted either by the prosecutor or by magistrates, police officers or special investigating officers (under the prosecutor's supervision).

Depending on the type of offence, the preliminary inquiry may be assigned to anti-corruption prosecutors (who deal with serious crimes involving public officers) or financial crime prosecutors (who deal with financial and criminal tax cases, usually with the assistance of the Financial and Economic Crime Unit, the tax police, the financial police). Following completion of the preliminary inquiry, the prosecutor either dismisses the case or starts prosecution. Criminal proceedings end either with a decision of the Judicial Council or a court's decision (following an open trial hearing).

Certain actions (eg, breach of tax, cartel, securities and banking laws) may be punishable as both administrative and criminal offences. Imposing administrative penalties falls under the jurisdiction of administrative authorities, whereas criminal sanctions are imposed by the criminal courts.

The investigation of such offences from an administrative point of view is conducted by special agencies or independent authorities, such as the Anti-Money Laundering Committee, the Hellenic Capital Market Commission (HCMC), the Hellenic Competition Commission (HCC) and tax authorities. After the conclusion of the investigation, a report is usually forwarded to the prosecutor, to explore the criminal aspects as well.

Law stated - 03 June 2020

Scope of agency authority

What is the scope of each agency's enforcement authority? Can the agencies pursue actions against corporate employees as well as the company itself? Do they typically do this?

Criminal authorities

Under Greek law, legal entities cannot be held criminally liable. Corporate employees may face criminal charges, usually brought against them in their capacity as 'legal representatives' of the company.

Administrative authorities

The Anti-Money Laundering Committee (the AML Committee) investigates and evaluates reports on suspicious activities that may be related to money laundering and predicate offences. It has a wide range of powers, including freezing accounts and seizing assets.

The HCMC monitors and controls the behaviour of regulated entities, listed companies and market participants in general, with respect to compliance with the provisions on market abuse. It has the power to impose fines on companies and individuals, and suspend or revoke licences, among other things.

The HCC is an independent administrative authority responsible for the enforcement of the Competition Act as well as of articles 101 and 102 of the Treaty on the Functioning of the European Union. It has broad enforcement powers in the areas of collusive practices and cartels, abuse of dominance and merger control. In this context, the HCC may, among other things, impose administrative fines, take interim measures in the case of suspected infringement of the Competition Act, or conduct investigations or dawn raids at the premises of companies or employees (holding an executive position related to the issue under investigation) for the enforcement of antitrust and merger control rules.

The various tax authorities conduct audits on companies and individuals, which may lead to tax assessments, fines, freezing of accounts, confiscation of assets, etc.

All the above agencies have a wide range of powers and can, among other things, conduct investigations at the premises of companies and confiscate documents, computers, electronic data, etc. Most importantly, irrespective of their power to impose administrative sanctions, they can trigger criminal prosecutions, as they are obliged to send their reports to a prosecutor in order to examine whether there are indications of criminal offences perpetrated by individuals.

Law stated - 03 June 2020

Simultaneous investigations

Can multiple government entities simultaneously investigate the same target business? Must they coordinate their investigations? May they share information obtained from the target and on what terms?

Certain agencies can investigate the same target business simultaneously, without being obliged to coordinate their investigations. There is no specific legal framework regarding sharing information between the agencies. If the information received from the target or collected during investigations falls within the competence of another agency, the prosecutor, or both, they can address relevant reports thereto (if criminal offences arise, the report to the prosecutor is obligatory).

Law stated - 03 June 2020

Civil fora

In what fora can civil charges be brought? In what fora can criminal charges be brought?

Civil charges are brought before civil courts.

Administrative sanctions are imposed by the administrative authorities (including the Anti-Money Laundering Committee, the Hellenic Capital Market Commission (HCMC), the Hellenic Competition Commission (HCC)); an appeal is possible before the administrative courts.

Criminal charges are brought exclusively by the prosecutor (usually following a preliminary inquiry). As a general rule,

misdemeanours are referred to trial by the prosecutor; felonies, on the other hand, go through the stage of a main investigation that ultimately ends with a decision of the judicial council upon acquittal of the defendants or referral to an open trial hearing. For certain felonies, the decision upon referral of the case to trial lies with the prosecutor and the presiding judge of the Court of Appeal.

Law stated - 03 June 2020

Corporate criminal liability

Is there a legal concept of corporate criminal liability? How does the government prove that a corporation is criminally liable for the acts of its officers, directors or employees?

Greek law does not attribute criminal liability to legal entities. In case of offences related to a legal entity, charges are brought against the legal representatives of the corporation, such as chief executive officers, executive directors and members of the board. Thus, criminal liability for business-related activities in Greece is linked to specific individuals acting for the company. However, criminal prosecution cannot be based on strict liability. Criminal charges always require an element of intent or negligence (depending on the type of offence).

There are provisions in special criminal statutes (eg, article 45 of Law No. 4557/2018 on money laundering) prescribing that penalties of an administrative nature (such as fines and withdrawal of licensing) can be imposed on legal entities in case of offences perpetrated for their benefit or on their behalf. This provision also dictates that the prosecutors send copies of the criminal case file to the competent administrative authorities to impose administrative penalties on the legal entity. In case of conviction of the individual, criminal courts send a copy of their decision to the competent authorities.

Moreover, administrative proceedings can be initiated against a corporation for breach of administrative provisions.

Law stated - 03 June 2020

Bringing charges

Must the government evaluate any particular factors in deciding whether to bring criminal charges against a corporation?

It is not possible to bring criminal charges against a corporation, as Greek law attributes criminal liability only to individuals.

In terms of administrative proceedings, the corporate history of misconduct and the seriousness and impact of the misconduct are significant factors in imposing administrative penalties on a corporation.

Law stated - 03 June 2020

INITIATION OF AN INVESTIGATION

Investigation requirements

What requirements must be met before a government entity can commence a civil or criminal investigation?

Criminal investigations are initiated ex officio by prosecutors, or by the police or special investigating officers (in coordination with the prosecutor), following any kind of information (criminal complaints filed by the alleged victim, reports of competent authorities, publications in the media, etc) that a criminal offence has been perpetrated.

Prosecution for certain offences presupposes a criminal complaint filed by the alleged victim (individual or legal entity) within three months from the time he or she became aware of the criminal act and one of the perpetrators. The range of such offences was extended by virtue of the new Penal Code (PC) applicable since 1.7.2019. Prosecution is obligatory, unless the allegations are clearly unfounded in law or in substance.

Administrative investigations are carried out following a complaint or on the authorities' own motion.

Law stated - 03 June 2020

Triggering events

What events commonly trigger a government investigation? Do different enforcement entities have different triggering events?

Investigations by prosecutors, special agencies or independent authorities are triggered by any kind of indication that there is a breach of law that falls under their competence. Depending on the scope of each enforcement agency, triggering events may differ.

Law stated - 03 June 2020

Whistle-blowers

What protections are whistle-blowers entitled to?

In Greek law, there is no general provision for whistle-blowers as an equivalent to the term in common law. Depending on whether they are involved in the alleged misconduct or not, persons providing information of wrongdoing may be entitled to protection or leniency, or both.

In terms of administrative investigations by the Hellenic Competition Commission (HCC), there is the possibility of admission to the Leniency Programme (article 25, paragraph 8 of Law No. 3959/2011), ensuring protection of confidentiality and lenient treatment.

In criminal law, protection of whistle-blowers and lenient provisions are prescribed only with regard to specific offences. The more important provisions are the following:

- leniency: persons who are involved in bribery may not be punishable or may be treated with leniency if they denounce illegal acts to the competent authorities on the basis of article 263A of the new Greek Penal Code (PC), applicable since 1 July 2019; and
- protection of witnesses: article 47 of the new Greek Code of Penal Procedure, applicable since 1 July 2019, prescribes the protection of 'public interest witnesses' – namely, individuals who report bribery of public servants, politicians or judges – on condition that the witnesses are not involved in the alleged offences. In such cases, witnesses may not be exposed to criminal liability risk related to the content of their testimonies (for the offences of perjury, slander, breach of personal data legislation, professional secrecy, etc).

Law stated - 03 June 2020

Investigation publicity

At what stage will a government entity typically publicly acknowledge an investigation? How may a business under investigation seek anonymity or otherwise protect its reputation?

In principle, investigations are not public and are not publicly acknowledged by the competent authorities.

Depending on the procedure, only the parties to the proceedings may have access to the case files.

Law stated - 03 June 2020

EVIDENCE GATHERING AND INVESTIGATIVE TECHNIQUES

Covert phase

Is there a covert phase of the investigation, before the target business is approached by the government? Approximately how long does that phase last?

Generally, pretrial proceedings, including investigations, are not public and are not announced to the target from the beginning. At some point, the target business, through its legal representatives, will be approached by the enforcement agencies or prosecutors to provide evidence or explanations regarding the case.

Covert investigations are prescribed exceptionally; under the conditions set out in articles 254 and 255 of the new Greek Code of Penal Procedure (CPP), if there is serious indication that (among others) offences of organised crime (articles 187 paragraphs 1 and 2, 187A of the Penal Code (PC)) or corruption (articles 159, 159 A, 235, 236, 237, 237A of the PC) are perpetrated and it is impossible or very difficult to reveal such offences in any other way, a covert investigation can be ordered as a last resort by the judicial council or by order of the prosecutor or the investigating judge, subject to approval by the judicial council. A covert investigation for corruption offences cannot last more than six months.

The tax authorities and the AML Committee may also conduct investigations collecting and cross-checking evidence before approaching the target business. If there is indication of money laundering, the head of the AML Committee may even freeze the company's accounts without prior notice (maximum duration of freezing: 18 months). There is no provision prescribing the duration of these investigations, provided that the statute of limitations has not elapsed.

Law stated - 03 June 2020

What investigative techniques are used during the covert phase?

During the covert phase of an investigation, the investigating officer or an individual acting under his or her orders may present him or herself as the person benefiting from the offence that the perpetrator has already decided to commit, or as an intermediary thereof. The person conducting the covert investigation may alter his or her personal or tax identity details for the purposes of such investigation (article 255 of the new CPP).

Other techniques that may be used in this phase, under the circumstances prescribed in articles 254 and 255 of the CPP, include the following: surveillance by means of electronic equipment, interception of telecommunications, collection and combination of personal data, and controlled deliveries.

Law stated - 03 June 2020

Investigation notification

After a target business becomes aware of the government's investigation, what steps should it take to develop its own understanding of the facts?

Depending on the type of investigation, the target business may request the presence of counsel or an IT expert to monitor the proceedings (such as during an investigation at the company's premises).

If a person is summoned by the prosecutor or the investigating judge as a suspect or defendant, he or she is entitled, among other things, to appoint counsel and request full copies of the case file.

Also, in the course of administrative investigations, the target business is entitled to receive copies of the documents either provided voluntarily or confiscated. Access to other material (eg, documents provided by other corporations under investigation) may be denied on various grounds, such as confidentiality.

Law stated - 03 June 2020

Evidence and materials

Must the target business preserve documents, recorded communications and any other materials in connection with a government investigation? At what stage of the investigation does that duty arise?

In general, the target business is obliged to preserve documents and other evidence related to an ongoing investigation. Destroying evidence may be an aggravating circumstance (especially in terms of Hellenic Competition Commission (HCC) investigations) or even a criminal offence.

As a matter of principle, an entity may be under the obligation to preserve documents and recorded communications (eg, a record of transactions, accounting books and records) to comply with specific laws.

Law stated - 03 June 2020

Providing evidence

During the course of an investigation, what materials - for example, documents, records, recorded communications - can the government entity require the target business to provide? What limitations do data protection and privacy laws impose and how are those limitations addressed?

The target business may be requested to provide any type of document during an investigation. There are limitations regarding attorney-client confidentiality. If privileged documents are confiscated – even if the target business objects – their evaluation as evidence will be decided by the judicial authorities at later stages of the proceedings.

Law stated - 03 June 2020

On what legal grounds can the target business oppose the government's demand for materials? Can corporate documents be privileged? Can advice from an in-house attorney be privileged?

In principle, the target business is obliged to provide the materials requested. There may be legal grounds to oppose based on confidentiality.

In-house counsel communications (including in-house counsel correspondence with external counsel) are covered by privilege.

There is an exception for HCC investigations (in accordance with European Court of Justice case law) where in-house counsel correspondence is not considered to be covered by privilege.

Law stated - 03 June 2020

Employee testimony

May the government compel testimony of employees of the target business? What rights against incrimination, if any, do employees have? If testimony cannot be compelled, what other means does the government typically use to obtain information from corporate employees?

Employees may be requested to testify during an investigation. They have the right to refrain from self-incrimination and the right to remain silent.

It is not standard practice for the target business to be requested to provide testimonies of the employees. If such testimonies are provided (eg, in the course of an internal investigation), they will be evaluated as simple documents rather than official testimonies.

Law stated - 03 June 2020

Under what circumstances should employees obtain their own legal counsel? Under what circumstances can they be represented by counsel for the target business?

If there is no conflict of interest, the employees can be represented by counsel for the target business.

In criminal investigations, the target business will not be represented in criminal proceedings by counsel, as it will not have the capacity of a defendant.

Law stated - 03 June 2020

Sharing information

Where the government is investigating multiple target businesses, may the targets share information to assist in their defence? Can shared materials remain privileged? What are the potential negative consequences of sharing information?

In general, sharing information between multiple target businesses is not prohibited under the limitations of personal data protection and confidentiality. Shared materials are not considered privileged. In the context of HCC investigations, although there is no strict prohibition, sharing information between multiple target businesses may be evaluated as an aggravating circumstance.

Law stated - 03 June 2020

Investor notification

At what stage must the target notify investors about the investigation? What should be considered in developing the content of those disclosures?

In reference to listed companies, there is no specific stage at which the target must notify investors. When a target is under investigation by the HCC, it is common practice to issue a press release.

In the case of criminal investigations, which necessarily refer to individuals, the company's disclosure of the initiation of criminal proceedings could raise personal data issues.

Law stated - 03 June 2020

COOPERATION

Notification before investigation

Is there a mechanism by which a target business can cooperate with the investigation? Can a target notify the government of potential wrongdoing before a government investigation has started?

In Greek law, there is no general formal mechanism for cooperation. Voluntary disclosure and reconstitution of damages are forms of cooperation provided for in specific provisions.

In any event, it is always possible for the target to notify the authorities of potential wrongdoing.

Law stated - 03 June 2020

Voluntary disclosure programmes

Do the principal government enforcement entities have formal voluntary disclosure programmes that can qualify a business for amnesty or reduced sanctions?

Corporations cannot be held criminally liable or be subject to criminal sanctions; however, in terms of administrative proceedings, voluntary disclosure may qualify a business for amnesty or reduced sanctions.

For example, there is a formal voluntary disclosure programme in investigations conducted by the Hellenic Competition Commission (HCC), ensuring more lenient fines and potentially the exclusion of criminal prosecution of individuals for specific offences related to competition.

Filing a corrective tax return for previous fiscal periods may reduce the administrative sanctions to be imposed on a corporation for tax offences and may prevent criminal charges being brought against individuals (legal representatives of the company).

The above examples show that voluntary disclosure on behalf of a corporation may have a positive impact on the relevant criminal proceedings against individuals.

Law stated - 03 June 2020

Timing of cooperation

Can a target business commence cooperation at any stage of the investigation?

As a general rule, it may be in the best interests of the target business to cooperate with the authorities sooner rather than later.

Law stated - 03 June 2020

Cooperation requirements

What is a target business generally required to do to fulfil its obligation to cooperate?

The target business is expected not to destroy evidence and not to prevent the authorities from conducting the investigation. In the course of criminal proceedings, the target business is obliged to provide all evidence and information requested by the authorities.

Law stated - 03 June 2020

Employee requirements

When a target business is cooperating, what can it require of its employees? Can it pay attorneys' fees for its employees? Can the government entity consider whether a business is paying employees' (or former employees') attorneys' fees in evaluating a target's cooperation?

A corporation's decision to cooperate with the authorities is not binding on its employees, provided that they do not destroy evidence and do not prevent the authorities from conducting the investigation.

The company may ask its employees to testify as witnesses or request reports, which may later be produced as evidence.

On the other hand, the employees' position toward the authorities may depend on whether they are involved in the acts under investigation, since they have the right not to incriminate themselves and to remain silent.

It is common practice for the target business to cover the attorneys' fees for its employees, provided that the actions under investigation are related to corporate activities. The company usually has a contractual obligation to cover such fees. It may decide to pay before or after the final decision on the proceedings and perhaps seek compensation if the employees are convicted of an offence perpetrated with intent.

If the employees' actions are against the company, it would appear contradictory for the company to pay for their attorneys' fees.

Law stated - 03 June 2020

Why cooperate?

What considerations are relevant to an individual employee's decision whether to cooperate with a government investigation in this context? What legal protections, if any, does an employee have?

The employee is obliged to pursue the goals of the corporation and to avoid actions that may endanger its interests. Refusal to provide evidence and information in the context of an internal investigation might be considered as failure to comply with this obligation. This could be a valid argument for dismissal. Of course, if by refusing the employee is exercising his or her right against self-incrimination, this will be a defence.

If the employee refuses to testify before the authorities, he or she may be criminally liable (article 169 of the Penal Code).

Law stated - 03 June 2020

Privileged communications

How does cooperation affect the target business's ability to assert that certain documents and communications are privileged in other contexts, such as related civil litigation?

If, in the course of HCC investigations, the target business characterises documents as privileged, these are expected to be treated as such in other contexts as well. In criminal investigations, the documents that are part of the case file (including documents covered by privilege) are available to the parties to the proceedings.

Law stated - 03 June 2020

RESOLUTION

Resolution mechanisms

What mechanisms are available to resolve a government investigation?

As a general rule, compensation for the alleged damage ensures a more lenient treatment in criminal proceedings.

Under the new Greek Code of Penal Procedure (CPP), there is a number of provisions (article 45, 48, 49, 50 CPP) dictating that the Prosecutor may abstain from the initiation of criminal proceedings if certain conditions are met by the suspect. Depending on the seriousness of the alleged offence, the conditions to be met are the following.

According to article 45§2 CPP, in the case of misdemeanors which are punishable with maximum one year's imprisonment or pecuniary sanction or both or community service, the Prosecutor may abstain from the initiation of criminal proceedings, if he deems that the prosecution of the alleged crime is not a serious matter of public interest, or, if the criminal act was perpetrated under special circumstances, including the suspect's effort to reconstitute the damage incurred.

According to article 48§1 CPP, in case of misdemeanors which are punishable with maximum three years' imprisonment, the Prosecutor may abstain from the initiation of the criminal proceedings if the suspect (indicatively) makes a substantial effort to reconcile with the victim, pays a certain amount of money to charity, complies with an existent maintenance obligation, participates in a social education programme or attends a certain number of driving lessons.

According to article 48§2 CPP, as regards the misdemeanors (among else) of forgery, embezzlement, misappropriation and fraud as well as the misdemeanors that are stipulated in Greek special penal laws (eg, tax law 4174/2013), the condition to be met by the suspect for the non-prosecution of the crime is the full reconstitution of the alleged damages.

According to article 49 CPP, in case that the aforementioned crimes are punished as felonies, the Prosecutor may abstain from the initiation of criminal proceedings if the suspect proceeds to the full reconstitution of the alleged damages, on condition that he does not commit a felony or misdemeanor of the same nature for three years following the Prosecutor's non-prosecution order.

Finally, according to article 50 CPP, the Prosecutor abstains from the initiation of criminal proceedings with regard to property crimes, if the suspect proceeds to the satisfaction of the victim after being examined by the competent authorities and before criminal prosecution is initiated.

Depending on the seriousness of the offence (whether it is a misdemeanour or a felony), and the stage of the proceedings (before investigation or after the case is referred to trial), there are certain mechanisms for plea bargaining or settlement based on the compensation for damage, which may lead to exclusion of criminal proceedings or non-punishment or leniency.

For example, article 405, paragraph 2 of the new PC states that (among others) the offences of fraud and breach of trust are not punishable if the perpetrator fully compensates for the damage incurred before being investigated by the competent authorities. Compensation for damage at later stages leads to non punishment of the defendant.

Article 301 of the new CPP provides that if criminal proceedings are initiated for the felonies mentioned therein (among others: forgery, embezzlement, fraud, misappropriation, tax evasion) and, prior to the closing of the main investigation, the defendant pleads guilty and reconstitutes all damage resulting from the above felonies, the maximum penalty to be imposed by the court is one year's imprisonment, or two years if aggravating circumstances are applicable. If the defendant pleads guilty and reconstitutes the damages after the closing of the main investigation, according to article 302 of the new CPP, the court will treat the defendants with leniency (maximum penalty: two years' imprisonment or three years if aggravating circumstances are applicable). The provision of article 302 CPP is also applicable for certain misdemeanours; the maximum penalty in such cases is six months' imprisonment, or 12 months if aggravating circumstances are met.

Article 303 of the new CPP provides for the mechanism of plea bargaining for all the offences prescribed in the PC with the exception of felonies that are punishable with life imprisonment, sexual offences and acts of terrorism. The plea bargaining commences upon the defendant's request, presupposes that the defendant pleads guilty and its scope can only be the sentence of the alleged offence. The agreed sentence depends on the seriousness of the crime, the culpability of the defendant as well as his or her personality and economic resources.

Also, in the case of breach of tax and security insurance laws, payment of the authorities' assessment may lead (on certain conditions, mainly related to the time of payment) to more lenient treatment or even exclusion of criminal penalties.

In Hellenic Competition Commission (HCC) proceedings, there are mechanisms for leniency (article 25, paragraph 8 and article 44 of Law No. 3959/2011) or settlement (article 25A of Law No. 3959/2011) on the conditions prescribed in Law No. 3959/2011. These mechanisms may lead to the exclusion of criminal and administrative sanctions for offences related to competition. Criminal prosecution for other related offences may still be possible.

Law stated - 03 June 2020

Admission of wrongdoing

Is an admission of wrongdoing by the target business required? Can that admission be used against the target in other contexts, such as related civil litigation?

Although there is no general requirement for admission of wrongdoing (eg, payment of the tax assessment does not exclude an appeal against the assessment before the competent administrative authorities), it is a prerequisite in certain proceedings. In the case of settlement in HCC investigations, admission will not be used against individuals in criminal proceedings given that criminal prosecution will also be excluded (but only for the specific offence). In terms of civil litigation, however, it may be possible for competitors or alleged victims to seek compensation from the corporation on the basis of antitrust actions.

Law stated - 03 June 2020

Civil penalties

What civil penalties can be imposed on businesses?

Only administrative penalties can be imposed on businesses as a result of an investigation (eg, fines and suspension or

withdrawal of licences).

Law stated - 03 June 2020

Criminal penalties

What criminal penalties can be imposed on businesses?

No criminal penalties can be imposed on businesses because legal entities cannot be held criminally liable.

Law stated - 03 June 2020

Sentencing regime

What is the applicable sentencing regime for businesses?

Administrative penalties vary depending on the competent authorities and the type of misconduct. Fines, withdrawal of licences and exclusion from public tenders are some of the sanctions that may be imposed under certain circumstances, taking into consideration various factors (seriousness and impact of the misconduct, history of misconduct, etc).

Law stated - 03 June 2020

Future participation

What does an admission of wrongdoing mean for the business's future participation in particular ventures or industries?

Admission of wrongdoing in HCC proceedings may prevent the company from participating in public tenders. Participation in public tenders requires a statement from the company to the effect that it has not been involved in uncompetitive behaviour in the past.

Law stated - 03 June 2020

UPDATES & TRENDS

Key developments of the past year

Are there any emerging trends or hot topics that may affect government investigations in your jurisdiction in the foreseeable future?

2019 was a year of change, as in July 2019 both the Greek Penal Code and the Code of Penal Procedure were replaced by new Codes, and further amendments were made in November 2019. The criminal sanctions system has changed radically, new institutions (including plea bargaining) were introduced and the range of offences prosecuted only upon a criminal complaint by the victim was extended. 2020 was expected to be the first year of transition and we were anticipating the response of the case law to the new laws. The response remains limited, as already in March, Greece had to address the pandemic through criminal proceedings suspension. Hence, the efficiency of the new provisions and their application is still to be proven.

* To answer from a Greek criminal law perspective, the authors have described the legal framework and the common

practice in Greece, without direct reference to the terminology used (eg, government investigations, government entities) insofar as it does not reflect the Greek legal system.

Law stated - 03 June 2020

Coronavirus

What emergency legislation, relief programmes and other initiatives specific to your practice area has your state implemented to address the pandemic? Have any existing government programmes, laws or regulations been amended to address these concerns? What best practices are advisable for clients?

To address the pandemic, Greece implemented a series of measures, including criminal sanctions in the case of violation of regulations, suspension of most criminal trial hearings from 13 March to 21 June and use of technology to facilitate proceedings. These include, inter alia, the following.

On 25 February 2020, an act of legislative content was issued providing for certain measures to address the covid-19 pandemic, including the temporary shutdown of schools, health-regulated establishments and places of social gatherings. By virtue of article 1, paragraph six of the said Act, violation of the measures prescribed is a criminal offence punishable with a maximum two years' imprisonment.

In March, Greece decided on the suspension of most criminal proceedings and deadlines prescribed in law. The suspension included certain exceptions such as – indicatively – trial hearings for felonies where the time limit for pretrial detention (18 months) was close to expiration or where the statute of limitations would expire in the time period from the beginning of the suspension of criminal proceedings to 31 January 2021. The suspension period started on 13 March 2020 and was extended by virtue of consecutive ministerial decisions until 21 June 2020. During that period, criminal trial hearings were automatically recessed or adjourned. The Joint Ministerial Decision issued on 28 May 2020 provided for criminal trial hearings to start again on 22 June 2020. Although criminal trial hearings are normally not held from 1 July to 15 September (subject to exceptions), in 2020 in particular this period will be limited from 16 July to 1 September.

Furthermore, article 75 paragraph 1 of Law 4690/2020 ended suspension of the deadlines for filing appeals and other judicial remedies and provides for prolonging these deadlines for 10 additional days. Article 75 paragraphs 2 and 3 also introduce the possibility of receiving copies of the prosecutors' recommendations via email and filing memoranda and certain requests via email as well. The said provisions (article 75 paragraphs 2 and 3) are applicable from 1 June to 15 September 2020.

Law stated - 03 June 2020