

Mediation

New opportunities for efficient dispute resolution

Greek Law 4640/2019, published in the Government Gazette 190/A/30.11.2019, regulates mediation in national and cross-border civil and commercial disputes; the law aims to further harmonise the Greek legal framework with the provisions of Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008.

1. General Overview

By virtue of this legal framework, the Greek Ministry of Justice aims at the acceleration of the resolution of a great number of disputes, as well as at the alleviation of the Greek courts' backlog. Taking into consideration the significant delay in adjudicating civil and commercial disputes, Law 4640/2019 is expected to contribute to a more efficient judicial system by decreasing the number of disputes which end up to Court.

Pursuant to the newly introduced provisions, the attorney representing the claimant must inform its client as to the possibility to resolve its dispute through mediation and a relevant acknowledgment of such notification must be filed with the lawsuit. Moreover, a mandatory preliminary mediation session is provided for specific disputes. During such mandatory session the mediator informs the parties about the mediation process and its benefits. The invitation to the man-

datory preliminary mediation session suspends the statutory limitation and all deadlines related to the exercise of the disputed claim.

2. The law at a glance – Key Q&A

To which disputes does the mandatory preliminary mediation session apply?

The mandatory preliminary mediation session applies to:

- Family disputes (with the exception of matrimonial disputes and disputes arising within the context of parent and children relationships).
- Disputes falling under the scope of ordinary proceedings, within the competence of multi-member courts of first instance and of single member courts of first instance for claims exceeding the amount of Euro 30,000.00.
- Disputes for which the parties have contractually agreed to mediate their potential disputes.

It is noted that the mandatory preliminary mediation session does not apply in cases where litigant parties are the Greek State or municipal or regional authorities or legal entities of public interest.

Failure to attend the mandatory preliminary mediation session may trigger the imposition of penalties ranging from Euro 100.00 to Euro 500.00 by the court.

What are the procedural requirements prior to the filing of a legal action?

Before submitting a dispute to litigation, the attorney representing the claimant must inform the client, in writing, of the option to submit the dispute to mediation, and on the obligation to hold a mandatory mediation session (where applicable). This notice has to be signed in acknowledgment by the client and filed with the court, along with the legal action, in case the parties do not agree on the settlement of the case through mediation. Failure to comply with the above requirements will render the action inadmissible. If the parties do not agree on the person who will be appointed as mediator, the latter is appointed by the Central Committee of Mediation via the Special Mediators Registry.

The mandatory preliminary mediation session must take place within twenty (20) days after the appointed mediator has been notified. In case any of the parties resides abroad, this time limit can be extended for up to thirty (30) days. The parties attend the session in person, or -in the case of legal entities- through a duly authorised legal representative, along with their attorneys; moreover, the

law provides for the possibility of teleconference, especially if any or all of the parties reside abroad. The procedure is strictly confidential and no minutes are kept.

Following the conclusion of the mandatory preliminary mediation session, the mediator issues a relevant certificate which is also signed by the persons attending the meeting. If the matter is later deferred to litigation, such certificate must be filed with the pleadings; otherwise the hearing of the case is rendered inadmissible.

How does the main mediation procedure progress?

Following the mandatory preliminary mediation session, the parties may agree to proceed with the mediation of the dispute and to this end they sign a relevant agreement. The mediation must be concluded within forty (40) days following the expiration of the deadline stipulated as to the scheduling of the mandatory preliminary mediation session, with the possibility of extension further to the parties' agreement.

The parties must attend the main mediation session in person along with their lawyers, (save for small claims up to Euro 5,000.00 and consumer protection cases where the parties may attend without a lawyer). Mediation is strictly confidential and prior to the session all parties agree to this end in writing.

If mediation is successful and the parties reach an agreement, the relevant minutes are signed by the parties, their lawyers and the mediator. Once the minutes are submitted to the court, they are enforceable and

are vested with the power of res judicata; thus, no matter covered by the mediation minutes may be brought admissibly before the courts.

When do the mandatory preliminary mediation session provisions enter into force?

According to Law 4640/2019, the provisions on the mandatory preliminary mediation session apply gradually as follows:

- as of 15th of January 2020, to lawsuits filed on or after such date, regarding family law disputes (with the exception of matrimonial disputes and disputes arising in the context of parent and children relationships)
- as of 15th of March 2020, to lawsuits filed on or after such date, before multi-member courts of first instance and single member courts of first instance for claims exceeding the amount of Euro 30,000.00.

3. A bonus incentive: Reinstatement of court stamp duty

The adoption of Law 4640/2019 and the introduction of the mandatory preliminary mediation coincides with the restoration of the obligatory payment of court stamping fees for all types of legal actions, including actions for declaratory judgment filed before the multimember court of first instance. The relevant obligation -amounting to approximately 1.1% on the amount of the claim- applies to all legal actions which will be heard before the multimember court of first instance as of 01.01.2020. This measure, pursuant to which an additional financial burden is imposed on the litigant parties, was abolished three years ago and is now restored, in an attempt to further encourage the parties to resolve their disputes through mediation.

For further details



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