

Developments in the area of public procurement

Presidential Decree 71/2019, which has been recently issued, introduces the register of contributors in the elaboration of public and private works, designs, technical and other related scientific services, as well as of concessions falling within the scope of Law 4413/2016.

Said register includes a) the Technical Works Register of Natural Persons (“ΜΗ.ΦΥ.Π.Τ.Ε.”) and b) the Technical Works Register of Enterprises (“ΜΗ.Ε.Τ.Ε.”). The newly introduced registration options aim at setting quantifiable and directly comparable standards of technical and professional capacity for individuals or companies participating in public tenders, as well as in the context of examination of the professional suitability as per the provisions of Articles 75 and 83 of Law 4412/2016.

This non-exhaustive summary aims at outlining the scope of the aforementioned Registers, as detailed in the recently enacted presidential decree, as well as the set of disciplinary rules and procedures to which their members are subject.

A “roadmap” of the Technical Works Registers and Sub-Registers introduced by P.D. 71/2019

The Technical Works Register of Natural Persons (Greek acronym: “ΜΗ.ΦΥ.Π.Τ.Ε.”)

- The Register competent for natural persons pursuing technical professional activities in Greece and involved in both public and private works, designs, technical and any other relevant scientific services and concessions.
- Registration is obligatory only for Greece-based individuals involved in public works, designs, scientific services etc.
- The Technical Works Register of Natural Persons consists of the following Sub-Registers:
 - **The Register of Designers’ Experience (Greek acronym: “Μ.Ε.Μ.”)**, in which the experience acquired from designs falling into a wide range of professional categories as outlined in Law 4412/2016 is recorded, including, indicatively, urban planning, financial, mechanical, chemical, environmental and information technology – related designs. Requirements for registration include highest-level degrees from Greek Universities or foreign degrees acknowledged as equivalent, as well as a licence to exercise the respective profession in Greece, where applicable.

- **The Register of Manufacturers' Experience (Greek acronym: "M.E.K.")**, in which the experience acquired in the context of construction and project management of works is recorded. Individuals subject to registration therein include engineers holding highest-level degrees from Greek Universities or foreign degrees acknowledged as equivalent and are either registered with the Technical Chamber of Greece or licenced to exercise their profession in Greece, where applicable, as well as engineers holding higher-level degrees entitled to construct public works as per applicable legislation.

The Technical Works Register of Enterprises (Greek acronym: "MH.E.T.E.")

- The Register competent for enterprises seated in Greece and engaged in public and private designs, the provision of technical and other relevant scientific services, the construction of public and private works, the execution of concessions and the project management of public/private works and designs.
- The Technical Works Register of Manufacturers consists of the following Sub-Registers:
 - **The Public Works Register of Designer Enterprises ("MH.M.E.Δ.E.")**, destined for individual entrepreneurs and enterprises seated in Greece and engaged in the production of designs for public works, as well as the provision of technical and other relevant scientific services falling into the same above-mentioned wide array of professional categories outlined in Law 4412/2016. Registration with Department I of the Register provides suitable certification for purposes of compliance with professional suitability requirements set out by call for tenders.
 - **The Private Works Register of Designer Enterprises ("MH.M.E.ΙΔ.E.")**, destined for individual entrepreneurs and enterprises seated in Greece and carrying out designs for private works. Registration for enterprises exclusively active in private works is not obligatory.
 - **The Public Works Register of Contractors ("MH.E.E.Δ.E.")**, destined for individual entrepreneurs and enterprises seated in Greece and engaged in the construction of public works as defined in Law 4412/2016. Registration with Department I of the Register provides suitable certification for purposes of compliance with professional suitability requirements set out by calls for tenders.
 - **The Private Works Register of Contractors ("MH.E.E.ΙΔ.E.")**, destined on an optional basis for individual entrepreneurs and enterprises seated in Greece and engaged in the construction of private works.
 - **The Register of Consulting Enterprises on the Project Management of Works ("MH.E.E.Σ.Δ.Δ.E.")**, destined on an optional basis for individual entrepreneurs and enterprises seated in Greece and engaged in the provision of consulting services in the sector of project management of works as detailed in Law 4412/2016. Registration with Department I of the Register provides suitable certification for purposes of compliance with professional suitability requirements.

It may be noted that Greece-based economic operators must register with the competent registries in order to be eligible to participate in public tender procedures. Although no such obligation applies to foreign entities, registration is still an option for the latter.

On the basis of oral communications with the registries, it appears that the framework as above adopted is not yet fully implemented and that further guidelines are expected by the relevant services.

Provisions regarding disciplinary audit, disciplinary offence and administrative sanctions regarding the said Register

P.D. 71/2019 also provides for disciplinary audits for any culpable act or omission of its members in breach of any public work or design contract, as well as for any misconduct deemed incompatible with the proper behaviour of a public contractor and designer. It specifies in detail the competent disciplinary bodies, as well as the disciplinary procedure, including available legal remedies.

For further information, please contact:

Sofia Chatzigiannidou

Senior Associate

T (+30) 210 69 67 000

E s.chatzigiannidou@zeya.com

Nasia Gkouma

Senior Associate

T (+30) 210 69 67 000

E n.gkouma@zeya.com

Established in 1893, Zepos & Yannopoulos is one of the leading and largest Law firms in Greece providing comprehensive legal and tax services to companies conducting business in Greece.

280, Kifissias Ave.
152 32 Halandri
Athens, Greece

newsletters@zeya.com
Tel.: (+30) 210 69 67 000
Fax: (+30) 210 69 94 640
www.zeya.com

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