

FOREIGN INVESTMENT REVIEW

Greece



Foreign Investment Review

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Quick reference guide enabling side-by-side comparison of local insights, including into law, policy and relevant authorities; procedure, including thresholds and timelines; substantive assessment, including interagency and international consultation, remedies and rights of challenge and appeal; relevant recent case law; and other recent trends.

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LAW AND POLICY

Policies and practices

What, in general terms, are your government's policies and practices regarding oversight and review of foreign investment?

Foreign investments are considered important for Greece's economic growth following the deep economic crisis and the covid-19 pandemic, which left the country with a competitive, low-cost and high-expertise labour market, as well as investment opportunities in the real estate market, where both residential and commercial property retain lower than average EU prices. Greece is currently open to foreign ownership and investment; the latter having been fully liberalised since 1990. Over the years, several policies and incentives have been implemented in favour of foreign investors; including cutting red tape, privatising key infrastructure and public sector enterprises, granting state aid and fast-track licensing procedures. With a number of development laws and efforts to accelerate and simplify the framework for investment, Greece has for years been aiming to attract investors and create an attractive and stable licensing, financing and implementation of regulatory framework for important investment plans.

In general, there are no restrictions on foreign ownership and investment and no minimum capital requirements. Accordingly, and subject to anti-money laundering (AML) restrictions, there is currently no national foreign direct investment (FDI) review and screening legal framework, and foreign investors are not subject to a general review procedure by the Greek authorities for undertaking direct investments in Greece. Furthermore, the Greek government has not imposed any restrictions on foreign ownership and investment, except for the regional restrictions posed on the acquisition of real estate in the border regions by non-EU persons, which reflect national security concerns and may be lifted anyway.

The last remaining capital controls, introduced in 2015, were lifted on 1 September 2019.

As far as large-scale investments are concerned, licensing procedures can be expedited in the industry, energy, tourism, transportation, telecommunications, health services, waste management and technology sectors. At the same time, the country has initiated major privatisation programs, allowing acquisition and exploitation by private investors of much of its vital infrastructure, such as airports, marines and energy infrastructure, that have attracted big international investors.

With respect to the origin of the investor, Greece in general has no restrictions regarding the nationality of an investor and no requirements for a criminal record check. Moreover, EU and Eurozone regulations referring to AML policies are applicable in Greece.

Law stated - 05 April 2023

Main laws

What are the main laws that directly or indirectly regulate acquisitions and investments by foreign nationals and investors on the basis of the national interest?

The main laws relevant to acquisitions and investments by foreign nationals and investors are listed below, with the note that several provisions have been amended or abolished, especially such of the earlier legislation:

- Law 4887/2022 'Development Law – Greece Strong Development';
- Law 4864/2021 'Strategic investments and improvement of the investment environment through the acceleration of procedures in private and strategic investments, creation of a framework for the spin off companies and other urgent provisions for development';

- Law 4796/2021 'Simplification of the Framework for Economic Activities';
- Law 4635/2019 'Invest in Greece and other provisions' on attracting strategic investments;
- Law 4608/2019 'Hellenic Development Bank and Attracting Strategic Investments';
- Law 4399/2016 'Statutory Framework for the Establishment of Private Investments Aid Schemes for the Regional and Economic Development of the Country';
- Law 4251/2014 'Immigration Code' (articles 16 and 20 - Golden Visa);
- N. 4172/2013 'Income Tax Code' (article 5A);
- Law 4146/2013 'Creation of a Business-Friendly Environment for Strategic and Private Investments';
- Law 3908/2011 'Aid for Private Investment to promote Economic Growth, Entrepreneurship and Regional Cohesion';
- Law 4014/2011 'Environmental licence on projects and activities';
- Law 3894/2010 'Acceleration and Transparency of Implementation of Strategic Investments';
- Law 3427/2005 providing incentives to multinational enterprises that invest in Greece;
- Law 3389/2005 'Public-private partnerships (PPPs)';
- Law 3426/2005 'Speeding up the process for the liberalization of the electricity market';
- Law 3299/2004 'Private investment incentives for economic growth and regional convergence';
- Law 3049/2002 'Privatization of Public companies and other provisions';
- Law 2364/95 concerning investments in natural gas in Greece;
- Law 2289/95 'Exploration, exploration and exploitation of hydrocarbons and other provisions' concerning private participation in oil exploitation;
- Law 2246/94 'Organization and operation of the telecommunications sector';
- Law 1892/1990 'Modernisation, development and other provisions' imposing restrictions on the acquisition by foreigners of real estate in border regions; and
- Legislative Decree 2687/1953 'On investment and protection of foreign capital', in conjunction with article 112 of the Constitution of Greece.

Law stated - 05 April 2023

Scope of application

Outline the scope of application of these laws, including what kinds of investments or transactions are caught. Are minority interests caught? Are there specific sectors over which the authorities have a power to oversee and prevent foreign investment or sectors that are the subject of special scrutiny?

The new Development Law 4887/2022 aims at stimulating economic growth in Greece by providing the following development incentives for specific activities and sectors:

- promoting digital and technological transformation in businesses;
- promoting green transition;
- creating economies of scale;
- supporting innovative investments and the introduction of new technologies related to Industry 4.0, robotics and artificial intelligence;
- supporting the employment of qualified personnel;
- promoting new entrepreneurship;
- supporting the country's less favoured regions and the regions included in the Just Transition Development Plan (SDAM); and
- boosting tourism and improving competitiveness in high value-added sectors.

To achieve these goals, provisions have been introduced to accelerate the evaluation, approval, review and verification process for the investment plans that are supported through these schemes.

Laws 4684/2021, 4608/2019, 4146/2013 and 3894/2010 collectively form the regulatory framework of strategic investments, meaning investments that, due to their strategic importance for the national or local economy, result in both a quantitative and qualitative impact of significant intensity in the increase of employment, productive reconstruction and promotion of the country's natural and cultural environment: featuring extroversion, innovation, competitiveness, all-encompassing planning and saving of natural resources under the cyclical economy perspective, particularly in the economic activity sectors of internationally marketable products or services. Strategic investments are divided into sub-categories, depending on the conditions required for inclusion per category. The laws provide certain categories of incentives and benefits, linked to the specific categories of strategic investments; namely, incentives for spatial development, tax incentives, fast track licensing procedures and state grants to cover part of the eligible expenses.

Law 4399/2016, as amended by Law 4887/2022, governs incentives for the establishment of private investment aid schemes, intended to promote regional economic growth but also large-scale investments by attracting direct foreign investments.

Other investment incentives are currently provided by Law 3908/2011, as amended by Law 4605/2019, in the form of tax relief, grants and allowances on investments in all economic sectors, except those explicitly excluded.

Article 20 of Law 4251/2014 provides for a renewable five-year Greek residency visa granted to foreign citizens who invest a minimum of €500,000 for the regional unit of north, central and south Athens in the region of Attica, the municipality of Thessaloniki, Mykonos and Santorini, and a minimum of €250,000 for the rest of the country in Greek real estate.

Law 4014/2011 requires that projects and activities whose construction or operation may affect the environment, such as projects implemented near forests, archaeological areas or coasts and seaside, are subjected to special terms and conditions and may require, depending on the place on implementation: a previous environmental opinion or licence from the Ministry of the Environment and Energy; a previous opinion of the Ministry of Culture and Sports; a previous opinion of the Forest Service under the competence of the Ministry of Environment; or a previous opinion of the National Tourism Organization.

Law 1892/1990 imposes mild restrictions on foreign ownership or occupation of real estate. These concern only foreign individuals or legal entities of non-EU states and European Free Trade Association member states who are interested in acquiring a personal right in immovable property located in border regions. That said, they can request the lifting of such restrictions through a petition indicating the purpose of the property's use.

Legislative Decree 2687/53 provides, inter alia, a series of measures and collateral that secure all capital entered from abroad for investment, such as: the exemption from any act of requisition or compulsory expropriation; the Bank of Greece's obligation to grant foreign currency to the investor; and many more tax and other investment-friendly clauses.

Law stated - 05 April 2023

Definitions

How is a foreign investor or foreign investment defined in the applicable law?

The Greek Law doesn't include a specific definition of foreign investment. The criterion used by the authorities of Greece is that of 'effective control', as determined on a case-by-case basis (eg, on competition grounds). The Organisation for Economic Co-operation and Development sets a benchmark figure of 10 per cent voting power that a foreign person or legal entity has over the company which operates as the investment vehicle, while the European

Union (EU) FDI regulation uses primarily the criterion of direct links and a lasting relationship between the foreign investor and the economy of the country.

Law stated - 05 April 2023

Special rules for SOEs and SWFs

Are there special rules for investments made by foreign state-owned enterprises (SOEs) and sovereign wealth funds (SWFs)? How is an SOE or SWF defined?

There is no special definition or rules for state-owned enterprises (SOEs) or sovereign wealth funds (SWFs). As a member of the EU and the European Monetary Union (largely synonymous with the Eurozone), Greece is required to meet EU and Eurozone investment regulations. Under the EU FDI Regulation, member states such as Greece may adopt mechanisms to screen foreign direct investments in their territory, including those made by foreign (non-EU) SOEs and SWFs on the grounds of security or public order. Greece does not currently maintain an FDI screening mechanism; however, the Greek government is currently working on the legislation for the development of an FDI screening mechanism, which may impact acquisitions and investments by SOEs and SWFs, since the risk to security or public order that could potentially arise when foreign investors seek to acquire control of or influence over European undertakings whose activities relate to critical technologies, infrastructure, inputs or sensitive information is greater if the investors are state-owned or controlled. In particular, the FDI Screening Regulation provides that when assessing the potential threats of the foreign investment to security or public order, the member state may consider whether the foreign investor is directly or indirectly controlled by the (foreign) government; including state bodies or armed forces of a third country, including through ownership structure or significant funding.

Furthermore, the Regulation (EU) 2022/2560 of the European Parliament and of the European Council of 14 December 2022 on foreign subsidies distorting the internal market (the Foreign Subsidies Regulation) applies as of 12 January 2023 and will come into effect on 12 July 2023. This imposes on companies an obligation to notify to the European Commission of their participation in public procurement procedures, where (1) the estimated contract value is at least €250 million and (2) the foreign financial contribution involved is at least €4 million per non-EU country. The European Commission may prohibit the award of contracts in such procedures to companies benefiting from distortive subsidies.

Law stated - 05 April 2023

Relevant authorities

Which officials or bodies are the competent authorities to review mergers or acquisitions on national interest grounds?

As discussed, Greece does not currently maintain a national screening mechanism that triggers an a priori general review of mergers or acquisitions on national interest grounds, but only on competition grounds. Since, however, 11 October 2020 – the date when the EU FDI Screening Regulation 2019/452 came into force – member states, including Greece, must notify the European Commission and the other member states of any foreign direct investment in their territory that is undergoing scrutiny. The Commission will then issue an opinion on the effect of the foreign investment on security and public order. The member states shall have the final say on whether to permit or block the execution of foreign investment, however they are obliged to consider the opinion of the Commission.

As far as competition is concerned, the Hellenic Competition Commission enforces the Competition Law in all sectors except for telecommunications. The Hellenic Telecommunications and Post Commission, which is the national regulatory authority in the telecommunications sector, is the competent authority for the enforcement of the Competition Law in the telecommunications sector.

Notwithstanding the above-mentioned laws and policies, how much discretion do the authorities have to approve or reject transactions on national interest grounds?

Greek competent authorities must conform with the criteria provided by the applicable (national and EU) laws on foreign (and domestic) investment, competition law, etc, accepting or rejecting transactions accordingly. Insofar as the specific criteria have been met, said authorities do not have the discretion to approve or reject transactions on national interest grounds. Since there are currently no general national provisions for blocking transactions on national interest grounds, the Greek authorities do not possess any discretion to decide on approving or rejecting transactions on such grounds.

Law stated - 05 April 2023

PROCEDURE

Jurisdictional thresholds

What jurisdictional thresholds trigger a review or application of the law? Is filing mandatory?

Notwithstanding the lack of a national foreign direct investment (FDI) screening mechanism, each type of investment (foreign or domestic alike) may have specific legal requirements, depending on the industry chosen and the place of execution. For example, any investment must conform to the environmental and urban planning legislation.

Strategic investments are subject to previous approval of their environmental terms by the Minister of the Environment and Energy. Depending on the following criteria set out in article 2 Law 4684/2021, if an investment qualifies as a strategic one, it will trigger the application of the relevant regulatory framework.

Strategic Investments 1 (regardless of investment sector) include:

- investments with a total budget of over €75 million; or
- investments with a total budget of over €40 million that create at least 75 new and viable employment positions.

Strategic Investments 2 include:

- investments with a total budget of over €20 million, concerning one or more of the following sectors: agri-food, research and innovation, biotechnology, cultural and creative industry, robotics, artificial intelligence, medical tourism, waste management, space industry, or if the investment concerns the digital transformation of the business or the provision of cloud computing;
- investments with a total budget of over €30 million that create at least 50 new and viable employment positions; or
- investments within Organized Receptors of Manufacturing and Business Activities with a total budget of over €20 million that create at least 40 new and viable employment positions.

Emblematic Investments of Great Significance include:

- investments implemented by distinguished legal entities that promote the green economy, innovation, technology, the economy with a low energy and environmental footprint, as well as investments that significantly strengthen

the Greek economy and its competitiveness at an international level.

Fast Track Strategic Investments include:

- investments with a total budget of over €20 million that create at least 30 new and viable employment positions;
- investments with a total budget of over €10 million that create at least 30 new and viable employment positions, and are part of an investment that has already been classified as strategic and its implementation has been completed; or
- existing investments, either classified as strategic or not, which proceed to a restructuring or modernisation or expansion of their facilities, with a total budget of over €15 million and which maintain at least 100 viable employment positions.

The following are automatically classified as strategic investments:

- public-private partnerships, regardless of the budget;
- Projects of Common Interest, regardless of the budget;
- Projects of Common European Interest with a total budget of over €20 million; or
- investments of spatial organisation of enterprises (development of business parks of Law 3982/2011), in an area of more than 500 acres and with a total budget of over €10 million

Specifically regarding renewable energy sources (RES), investments in energy production units are classified as strategic investments, if, cumulatively with the individual conditions of the category they apply for, they also meet the following two conditions:

- They must fall into one of the following categories:
 - systems that combine a power plant from a RES with a system for the production of 'green' hydrogen, provided that the generated electricity is exclusively used for the production of hydrogen;
 - installations of offshore wind or floating photovoltaic parks or RES projects that interconnect areas of the country via submarine cable, that have not been interconnected and are not planned to be interconnected with the European Network of Transmission System Operators for Electricity (ENTSO-E), in accordance with the approved (at the time of the application for inclusion) Ten-Year Network Development Plan of the ENTSO-E; or
 - RES projects of fully-controlled electricity generation according to paragraph 14 of article 2 of Law 4414/ 2016 (A' 149).
- They must have a budget of at least €75 million.

Law stated - 05 April 2023

National interest clearance

What is the procedure for obtaining national interest clearance of transactions and other investments? Are there any filing fees? Is filing mandatory?

There are no national laws imposing a general obligation for obtaining national interest clearance. The FDI Regulation provides for the notification and issuing of an opinion by the European Commission, in case the foreign investment is likely to have an impact on the national security and public order of the member state or the EU. Although the opinion and comments of the Commission are not binding for the member state, which has the final word on the execution or

blockage of the investment, the FDI Regulation dictates that the member state shall give due consideration to the comments made.

Enterprise Greece is the competent national body, under the supervision of the Ministry of Foreign Affairs, that attracts foreign direct investments in Greece. Enterprise Greece's project portfolio includes investment opportunities from the public and private sectors of the Greek economy, in all sectors thereof. An investor can make an investment application to Enterprise Greece in order to search for investment opportunities from the organisation's portfolio, or in order for a particular investment to be subjected to the legal framework (eg the development laws) that grants state aids or to be characterised a 'strategic' one, by completing a form. This service is offered free of charge. However, a management fee is charged when an investor's request is approved by the Interministerial Committee for Strategic Investments (ICSI). For the application of strategic investments in particular, investors must pay a management fee equal to 0.1 per cent of the total investment cost, ranging from €50,000 to €250,000. 25 per cent of the management fee must be paid when submitting the application and the remaining 75 per cent must be paid to the ICSI. The application should be supported with a complete file including at least the following information:

- the proposed investment's business plan;
- documentation about the ownership status of the investment location;
- a financial analysis of the total investment budget and the financing structure;
- the environmental and urban characteristics of the real estate according to the master plan;
- an investment impact assessment;
- an irrevocable order and proxy to Enterprise Greece to take the necessary actions;
- proof of payment to Enterprise Greece for 25 per cent of the total management fee;
- a solemn declaration that the material provided is true and accurate; and
- supporting documentation including a detailed description of the aid requested and the costs incurred.

Enterprise Greece will conduct an assessment and provide an opinion on the completeness of the file and the reason for approving the investment under the framework. The ICSI, having the final say, will then decide whether to classify the investment proposal as strategic. Afterwards, the General Directorate of Strategic Investments of the Ministry of Development and Investment, operating as a one-stop shop for the licensing of strategic investments, will take all necessary steps to obtain the required licences, approvals and opinions for the implementation of the strategic investment.

Law stated - 05 April 2023

Which party is responsible for securing approval?

As far as strategic investments are concerned, the ICSI is the competent government body that supervises the rapid authorisation process for strategic investments and decides on the inclusion of non-investment projects in it. The ICSI ensures the functioning of the strategic investment process. Both the investor and the legal entity accepting the investment are responsible for securing the transaction by submitting all necessary documents to the competent authorities.

Law stated - 05 April 2023

Review process

How long does the review process take? What factors determine the timelines for clearance? Are there any exemptions, or any expedited or 'fast-track' options?

Currently there is no national provision for a general review of the investment on national security grounds, nor a national law imposing a general obligation for national interest clearance. The EU FDI Regulation states that any comments or opinions issued and addressed to the member state where the foreign direct investment is planned or has been completed shall be sent to it within a reasonable period, and in any case no later than 35 calendar days following the notification. Factors that may determine this timeline include: the ownership structure of the foreign investment; the approximate value; the funding; the date of completion of the investment; as well as the products or services offered by the foreign investor.

Furthermore, any investment made shall comply with the environmental, archaeological, urban planning and coastal legislation. Therefore, depending on the sector and place of execution of the planned investment, a review may be required by the relevant authorities on environmental, archaeological or urban planning grounds. The review and licensing on the latter grounds may be accelerated if an investment is characterised as strategic and is subsequently subjected to 'fast-track' law procedures. For the characterisation of an investment as a strategic investment under one of the categories stipulated in Law 4684/2021, Enterprise Greece will initially provide its opinion on the completeness of the file and the reason for approving the investment under the framework within 45 calendar days from the submission of the relevant application by the investor. The Interministerial Committee for Strategic Investments will then decide, within 30 calendar days, whether to classify the investment proposal as strategic. Regarding the subsequent implementation of the strategic investment, Law 4684/2021 provides for a fast-track procedure for all strategic investments whereby all licences, approvals or opinions required for the establishment, or the operation of a strategic investment, are issued within a deadline of 45 calendar days starting from the submission date of the relevant dossier by the investor to the General Directorate of Strategic Investments of the Ministry of Development and Investment. The latter will forward the dossier, accompanied by an application for the issuance of the licence, approval, or opinion, to the relevant competent licensing authority which examines the formal and substantial completeness of the dossier and, within 15 calendar days and once only, may request for additional information. In such a case, the deadline is suspended and commences again from the submission of the additional information. In any case, the aforementioned 45-day deadline cannot be extended. In relation to the issuance of an Environmental Terms Approval, the above period is shortened to 30 calendar days.

If the above deadline elapses, the law provides for the possibility for the Minister of Development and Investment to issue or reject the relevant licence on justified grounds within one month.

Law stated - 05 April 2023

Must the review be completed before the parties can close the transaction? What are the penalties or other consequences if the parties implement the transaction before clearance is obtained?

The review on environmental, archaeological, urban planning and coastal ground, as well as the review on the characterisation of an investment as strategic and the following inclusion to the fast-track regime, must be completed before the parties finalise the transaction. In case of infringement, the investment may be declassified as 'strategic' and the competent authorities may recall the entitled grants. Furthermore, depending on the type and the nature of the infringement, the investment may be subject to the fines and penalties provided for by the environmental, archaeological, spatial and urban legislation: which range from money fines to removal of the licence to operate and substantive obligation of divestment (eg, by demolition of real estate investment property).

Involvement of authorities

Can formal or informal guidance from the authorities be obtained prior to a filing being made? Do the authorities expect pre-filing dialogue or meetings?

An investor is normally expected to make an investment application to Enterprise Greece by completing a form to search for investment opportunities from the Enterprise Greece portfolio, to determine whether the investment is subject to scrutiny and to ensure compliance with the relevant legal prerequisites. Moreover, the parties to the transaction can always consult the authorities on an unofficial basis regarding issues that the investor wants clarified beforehand.

Law stated - 05 April 2023

When are government relations, public affairs, lobbying or other specialists made use of to support the review of a transaction by the authorities? Are there any other lawful informal procedures to facilitate or expedite clearance?

Although there is no standard framework for the participation of government relations, public affairs, lobbying or other specialists in supporting applications, in practice there is a rather broad collaboration with relevant consultants as well as technical advisers, to support investors in the preparation and evaluation of the files. For example, public enterprises such as the Hellenic Republic Asset Development Fund use external technicians, financial and legal advisers to evaluate the investment proposals they receive. Furthermore, an investor may fill out and send a contact form to Enterprise Greece to receive specialised information or support on many issues such as financing, licensing and operation of the investment (taxation, labour issues, etc).

Law stated - 05 April 2023

What post-closing or retroactive powers do the authorities have to review, challenge or unwind a transaction that was not otherwise subject to pre-merger review?

Since there is currently no national FDI screening framework on the grounds of national interest, the authority solely responsible for reviewing mergers in Greece – and only on competition grounds – is the Hellenic Competition Commission (HCC), operating as an independent authority supervised by the Minister for Development and Investment. The HCC may prohibit concentration when the concentration leads to a significant restriction of competition. The participating undertakings will be required to report to the HCC regarding the actions taken to implement the imposed remedies. The HCC may revoke its clearance decision if the parties do not comply with any of the conditions set out in that decision. In case of a breach of remedies the HCC may impose a fine, which may be up to 10 per cent of the combined aggregate turnover of the participating undertakings. If the participating undertakings do not comply following such a fine, the HCC may order the unwinding of the transaction.

Law stated - 05 April 2023

SUBSTANTIVE ASSESSMENT

Substantive test

What is the substantive test for clearance and on whom is the onus for showing the transaction does or does not satisfy the test?

In general, there is no standard substantive test procedure for clearance applicable to all types of investments. Specifically in the field of strategic investments, the competent authority for the assessment and characterisation of strategic investments is the Interministerial Committee for Strategic Investments, according to article 11 Law 4864/2021. An investor submits an application to Enterprise Greece with their investment proposal, accompanied by a complete file that includes a business plan and the investment impact assessment, etc. Enterprise Greece is required to give an opinion on the completeness of the dossier and the feasibility of the inclusion of the investment in the strategic investment process (article 13 Law 4864/2021), based on quantitative and qualitative criteria set out in article 2 Law 4864/2021. The Interministerial Committee for Strategic Investments has the final say on whether the investment should be characterised as strategic for the purposes of Greece's growth and development. No provision is inclusive of screening on the grounds of national security or public order.

Law stated - 05 April 2023

To what extent will the authorities consult or cooperate with officials in other countries during the substantive assessment?

Communication between Greek authorities and public officials from foreign countries is not expressly provided for by the national applicable laws on foreign investments. The EU foreign direct investment Screening Regulation provides for the exchange of information about foreign investment between the member states and the European Commission. Therefore, Greek authorities may contact the Commission, as well as authorities of other member states of the EU for any concern regarding the effect of the investment on security and public order, ie for purposes of anti-money laundering issues.

On the grounds of protection of competition, the Hellenic Competition Commission has signed memorandums of partnership with foreign competition authorities.

Law stated - 05 April 2023

Other relevant parties

What other parties may become involved in the review process? What rights and standing do complainants have?

While the review process is primarily upon the exclusive jurisdiction of the competent authorities, third parties (eg, competitors etc) can file complaints before the competent authorities, for example the environmental or archaeological authorities as well as the Hellenic Competition Commission, reporting potential breaches of Law 3959/2011 on the protection of free competition. The HCC, which proactively monitors the effect on competition of concentrations of undertakings as provided for in articles 5 to 10J. 3959/11, will examine the merits of said complaints specially to confirm whether a transaction results in the restriction of competition as provided for in article 1 (1). 1 n. 3959/11 and issue a decision accordingly.

Law stated - 05 April 2023

Prohibition and objections to transaction

What powers do the authorities have to prohibit or otherwise interfere with a transaction?

The authorities must conform to the legislation and cannot reject an investment without justifying the rejection or the imposition of restrictions on approval based on the applicable legal provisions.

Law stated - 05 April 2023

Is it possible to remedy or avoid the authorities' objections to a transaction, for example, by giving undertakings or agreeing to other mitigation arrangements?

There is no general framework for the provision of undertaking or other mitigation arrangements. If it is permitted and provided by the applicable law to the transaction, remedies or other mitigation agreements or arrangements can take place, always according to the relevant provisions and the legal administrative procedure. For instance, the HCC may approve a concentration subject to conditions (commitments by the parties). Such was the case with the merger concerning the acquisition of sole control by Attica Group of Hellenic Seaways, which was approved by the HCC subject to commitments for the execution of ferry routes from the Attica region to the Cyclades and the Dodecanese. These commitments concerned the non-increase of the frequency of services per relevant product market (passengers, cars, lorries), in the route from and to Attica and the islands of Paros, Naxos, Ios, Thira, Amorgos, Koufonisia, Syros and Patmos (the 'Islands of Commitments') compared to the frequency of services prior to the merger – as well as the commitment that in the event that a third competitor becomes active in specific routes from and to Attica and the Islands of Commitments, Attica Group will cease its activity in these routes.

Law stated - 05 April 2023

Challenge and appeal

Can a negative decision be challenged or appealed?

A negative decision by the public authorities constitutes an administrative decision that can be challenged before the authorities that issued the decision, as well as before the supervising public authority. Furthermore, a petition can be filed before the competent administrative courts of Greece.

Law stated - 05 April 2023

Confidential information

What safeguards are in place to protect confidential information from being disseminated and what are the consequences if confidentiality is breached?

Directive (EU) 2016/943 of the European Parliament and of the European Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure has been harmonised in Greece by virtue of Law 4605/2019.

In addition, Law 146/1914 as amended and in force protects commercial confidential information; breaches thereof, besides being a tort, may also constitute a criminal offence.

There are further safeguards for the protection of trade secrets in sector-specific laws, as for example in Law 4512/2018 (article 254 ff) regarding pharmaceutical products, and Law 3528/2007 (article 26) which binds public

servants and the personnel of the competent public administrative authorities with confidentiality obligations and provides administrative, disciplinary and possible criminal sanctions for breaches thereof.

Equally, the members and staff of independent administrative authorities such as the Hellenic Competition Commission and the Regulatory Authority for Energy are subject to specific confidentiality obligations contained in their statutory acts.

The investor may request that confidentiality clauses may be included in the investment documentation.

With respect to personal data, any processing thereof shall be carried out in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council (the General Data Protection Regulation) and Law 4624/2019 (the General Data Protection Regulation Law) and only in so far as it is necessary for the screening of foreign direct investments and for ensuring the effectiveness of the cooperation provided for in the EU FDI Regulation. Furthermore, the personal data shall be kept only for the time necessary to achieve the purposes for which they were collected. In case of breach, the law provides for administrative and criminal sanctions.

Law stated - 05 April 2023

RECENT CASES

Relevant recent case law

Discuss in detail up to three recent cases that reflect how the foregoing laws and policies were applied and the outcome, including, where possible, examples of rejections.

Acquisition of the share capital of Skroutz Internet Services SA by CVC Capital Partners SICAV-FIS SA through SAIGA Sarl triggered a review by the Hellenic Competition Commission (HCC) on competition grounds. CVC, together with its subsidiaries and affiliated companies, form the 'CVC Network'. SAIGA Sarl is a special purpose company, indirectly controlled by CVC, registered under the laws of Luxembourg. Skroutz SA is a Greek company, registered in accordance with Greek laws. This company operates in the field of internet services through the development of e-commerce price comparison, online restaurant food delivery platform and online paid search advertising platform. In this transaction the HCC, based on article 8, paragraph 3 of Law 3959/2011, cleared the acquisition by SAIGA Sarl of negative control over Skroutz. The HCC in Decision 714/2020 (Official Gazette B 4979/11.11.2020), decided that upon the completion of the acquisition, SAIGA Sarl would become the largest minority shareholder and would be able alone to exercise veto during strategic commercial decisions in Skroutz SA.

The HCC pursuant to Decision No. 658/2018 approved the merger concerning the acquisition of sole control of Hellenic Seaways by Attica Group, subject to commitments for the execution of ferry routes from the Attica region to the Cyclades and the Dodecanese, from the new entity (in accordance with article 8 of Law 3959/2011). Said commitments were re-evaluated first by Decision No. 734/2021 of the HCC, which unanimously decided:

- the lifting of the commitment not to increase routes in the relevant ferry markets of passengers, cars and trucks from Attica to the island of Ios and vice versa;
- the partial extension of the commitment for three more years until 2024 regarding third-party competitors; and
- the extension of the other commitments for three more years until 2024, regarding the routes from Attica to the islands, Syros, Paros, Naxos, Amorgos, Koufonisia, Thira, Patmos, Chios and vice versa.

In 2023, the HCC will decide, after re-evaluating the effectiveness of the remaining commitments and the current conditions of competition in the relevant ferry markets (for passengers, vehicles and trucks to the islands of Chios and Mytilini), the possible extension of the commitments for a period of two more years, under section B4 provided for in HCC Decision 658/2018.

UPDATE AND TRENDS**Key developments of the past year**

Are there any developments, emerging trends or hot topics in foreign investment review regulation in your jurisdiction? Are there any current proposed changes in the law or policy that will have an impact on foreign investment and national interest review?

On 10 April 2019, the EU Regulation on foreign direct investment screening (the FDI Regulation) entered into force and became fully operational on 11 October 2020. The FDI Regulation aims to provide an EU-wide cooperation framework between the member states and the European Commission and to establish common criteria to identify risks relating to the acquisition or control by foreign investors (especially those that are state-owned or controlled) of strategic assets that might threaten security or public order. Under the EU FDI Regulation, member states such as Greece may adopt mechanisms to screen foreign direct investments in their territory on the grounds of security or public order. As of March 2023, most member states have already adopted a screening mechanism or amended their national screening framework to conform with the FDI Regulation. Greece is currently working to create a national FDI screening mechanism conforming to the FDI Regulation.

Additionally, the Foreign Subsidies Regulation is expected to enter into force on 12 July 2023. When engaging in public procurement procedures, an economic operator that has received foreign financial contributions must notify the European Commission when its conditions are met.

Furthermore, the Ministry for Development and Investment is working with a view to introducing administrative requirements for the enforcement of the recent development Law 4887/22. On 14 March 2023 the ministerial decision certifying members of the National Register of Certified Auditors and Evaluators was published, which includes the auditors and evaluators who succeeded in the relevant certification examination organised by the Technical Chamber of Greece.

Jurisdictions

	Australia	Gilbert + Tobin
	Austria	Barnert Egermann Illigasch Rechtsanwälte
	Cambodia	Tilleke & Gibbins
	Canada	McCarthy Tétrault LLP
	Denmark	Bech-Bruun
	European Union	Allen & Overy LLP
	France	White & Case
	Germany	BLOMSTEIN
	Greece	Rokas
	India	AZB & Partners
	Indonesia	Nagashima Ohno & Tsunematsu
	Italy	Gianni & Origoni
	Japan	Anderson Mōri & Tomotsune
	Laos	Tilleke & Gibbins
	Malaysia	Nagashima Ohno & Tsunematsu
	Mexico	White & Case
	Myanmar	Tilleke & Gibbins
	Netherlands	Greenberg Traurig LLP
	New Zealand	Russell McVeagh
	Norway	CMS Kluge
	Spain	White & Case
	Sri Lanka	Tiruchelvam Associates
	Sweden	Bokwall Rislund Advokatbyrå
	Switzerland	Lenz & Staehelin
	Thailand	Nishimura & Asahi

 United Kingdom	Preiskel & Co LLP
 USA	Cleary Gottlieb Steen & Hamilton LLP
 Vietnam	Tilleke & Gibbins