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The International Comparative Legal Guide to:
Environment Law 2010

A practical cross-border insight into environment law

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1 Environmental Policy and its Enforcement

1.1 What is the basis of environmental policy in Greece and which agencies/bodies administer and enforce environmental law?

Under article 24 of the Greek Constitution the protection of the natural environment is an obligation of the Greek State and a right of every Greek citizen. The Constitution specifically states that the competence of the legislative body includes regulation for the protection of forests, zone planning and city planning as well as protection of monuments and elements of tradition.

Environmental policy is produced and monitored by the Ministry of Environment, Energy and Climate Change, formerly named the Ministry of Environment Zone Panning and Public Works. The Ministry is responsible for the enforcement of environmental law in cooperation with the environmental departments and town planning sections of the Prefectures and Peripheries; other Ministries may be responsible depending on the sector affected, such as the Ministry of Defense, as well as municipalities.

Administrative courts and more specifically the Fifth (E) Chambers of the Supreme Administrative Court (*Symvoulio tis Epikrateias*) is the court which has jurisdiction to examine the compliance of the acts issued by administrative authorities with environmental law and the Constitution. Penal Courts are involved in the specific, quite numerous, cases where the breach of law is a crime.

1.2 What approach do such agencies/bodies take to the enforcement of environmental law?

The principal goal of environmental policy in Greece is sustainable development in all sectors of the economic and production activity, such as energy, tourism, transportation and agriculture; the improvement of the quality of life with regard to pollution, waste management, city planning. The basic legislative instruments to realise these efforts are law 1650/86 for the protection of the environment, EU environmental legislation and the obligations of Greece with respect to international environmental agreements and conventions.

An important characteristic of environmental legislation in Greece is the complexity and number of laws and regulations which may cause bureaucratic constraints, administrative controversies and regulatory uncertainty. This framework has enhanced the role of the Supreme Administrative Court in the interpretation of environmental laws and their consistency with constitutional and EU law, which certainly delays the licensing and enforcement procedures.

There is a multitude of administrative bodies involved in the environmental licensing process. Recent legislation, ministerial decisions and relevant guidelines, as well as working groups for the preparation of new legislative texts, place great emphasis on simplifying procedures, reducing bureaucracy for the licensing of entrepreneurial activities, and balancing between environmental protection, business interests and urban development.

1.3 To what extent are public authorities required to provide environment-related information to interested persons (including members of the public)?

A general principle of Greek administrative law is the obligation of the authorities to provide citizens with information no later than 60 days from submission of a written request (article 10 of the Constitution, article 5 of law 2690/1999). Directive 2003/4/EC on public access to environmental information was implemented by Ministerial Decision (MD) ΗΠ 11764/653, replacing MD 77921/1440/95.

Under MD ΗΠ 11764/653 every individual or legal entity is entitled, regardless of any special grounds that justify its interest, to gain access to environmental information held by any public authority, governmental body and person providing public services and exercising public authority. This right covers a wide range of information which may be in written, visual, oral, electronic or any other material form and refers to: the state of the elements of the environment; factors, measures, policies, legislation, plans, programmes, environmental agreements and activities affecting or likely to affect these elements; reports on the implementation of environmental legislation; cost-benefit and other economic analyses and assumptions used within the framework of such measures and activities; and the state of human health and safety, including the contamination of the food chain, conditions of human life, cultural sites and built structures in as much as they affect environmental elements.

MD ΗΠ 11764/653 provides for the timeframe within which information should be provided and the procedure that must be followed in case there are objective difficulties in providing the information. Access to information may be refused on certain grounds related to protection of public interest, lack of clarity of the request or the nature of the information requested. The right of refusal must be interpreted by the competent authorities in a restrictive way, taking into account the public interest served by disclosure. The case law of the Administrative Supreme Court on the key principle of proportionality may constitute a useful guide in the enforcement of these provisions.

2 Environmental Permits

2.1 When is an environmental permit required, and may environmental permits be transferred from one person to another?

Law 1650/1986 as amended by law 3010/2002 contains the basic legal framework on environmental permits. It confers regulatory competence to the Minister of Environment, Energy and Climate Change to issue implementing Ministerial Decisions, which determine the procedural details for the classification of projects and activities for which an environmental permit is required and the information and documentation which will support the respective applications.

In general an environmental permit is required for the establishment, extension, amendment or modernisation of every public or private project and activity classified as having impact on the environment. Projects are classified by Ministerial Decision as to their environmental importance. After the issue of the establishment permit, any later development which encompasses an essential change to the existing environmental impact must undergo the permission procedure.

The Environmental Permit ("EPO" which stands for "*Egrisi Perivallodikon Oron*", i.e. the Decision on the Approval of Environmental Terms) as defined in law 1650/1986, is issued by the Minister of Environment, Energy and Climate Change in cooperation with the Minister competent for the relevant work or activity. The Ministers may delegate the authority for the issue of the permit in certain categories of works or activities to the local General Secretary of the Periphery or the Prefecture. In all cases the authority granting the permit has the discretion to introduce conditions, terms, restrictions and amendments in relation to the site, the size, the kind and the applied technology and in general the technical characteristics of the works to be performed.

If the holder of the permit transfers the project, the permit follows the project and is amended to incorporate the change of name of the holder. The new holder must comply with the terms and conditions provided by the permit.

2.2 What rights are there to appeal against the decision of an environmental regulator not to grant an environmental permit or in respect of the conditions contained in an environmental permit?

The person who has justifiable interest may appeal against the decision refusing to grant a permit before the Administrative Supreme Court within sixty (60) days from knowing the decision. The applicant may only request that the decision is cancelled and not that it is amended by the Court.

If the competent authority for granting the permit is not the Minister but the Periphery or the Prefecture, the interested party may file a complaint pursuant to law 3200/1955 before the Minister of Environment, Energy and Climate Change within 30 days from knowing the decision. The complaint is an interim recourse which in practice extends the time limit for filing an appeal to the court; such appeal may be filed if the complaint is unsuccessful.
Third parties may challenge the decision granting a permit before the Administrative Supreme Court.

2.3 Is it necessary to conduct environmental audits or environmental impact assessments for particularly polluting industries or other installations/projects?

Particularly polluting industries or installations/projects are subject to a dual-phase licensing procedure. A pre-study of the environmental impacts is filed by the applicant as a precondition for the grant of the environmental permit. The pre-study examines all impacts on the various elements of the environment that are likely to be effected by the activity; describes the measures to prevent, reduce or restore the negative impacts on the environment; and describes alternative solutions and their impact. The authority makes a preliminary assessment on the environmental impact of the project and a second assessment follows at a later stage of the licensing procedure.

Audits are conducted by the administrative bodies which are responsible to approve of the installation and operation of the project. In parallel the Ministry of Environment Energy and Climate Change and the Units for Control of Environmental Quality (K.E.P.PE.) operating at the Prefectures under the supervisory authority of the Ministry may conduct independent audits by site visits.

2.4 What enforcement powers do environmental regulators have in connection with the violation of permits?

An audit report is compiled on the results of the audit. It proposes sanctions and penalties if a breach is identified. On the basis of the report the Prefect or the General Secretary of the Periphery or the Minister of Environment Energy and Climate Change can impose administrative penalties. The competence of these bodies depends on the gravity of the penalty. The law provides for a variety of penalties including fines, permanent or temporary suspension of the activity or the imposition of additional environmental conditions on the holder of the permit.

3 Waste

3.1 How is waste defined and do certain categories of waste involve additional duties or controls?

As the Waste Framework Directive (2006/12/EC) has not yet been implemented into Greek law, the definition of waste is set out in the Common Ministerial Decision 13588/725/2006 which implemented the Hazardous Waste Directive (91/689/EEC). However, there is no significant difference to that of article 1 of the Waste Framework Directive. As a result, "waste" is any substance or object, in liquid or solid status form or sludge of those included within the categories listed in the EU Waste List, which the person who possesses it discards or intends or is required to discard.

Furthermore, other categories of waste are defined in other acts, such as "hazardous waste", defined in the Common Ministerial Decision 13588/735/2006, which implemented the Hazardous Waste Directive (91/689/EEC); "urban waste water" in the amended Common Ministerial Decision 5673/400/1997 regarding the Urban Waste Water Treatment Directive (91/271/EEC); "medical waste" in the Common Ministerial Decision 37591/2031/2003; and waste referred in PD 117/2004 implementing the WEEE and the RoHS Directives; etc. The above acts introduce additional duties to the persons responsible for the disposal or management of different categories of waste, such as specific permits or detailed requirements.

3.2 To what extent is a producer of waste allowed to store and/or dispose of it on the site where it was produced?

Waste must be stored or disposed of in special sites to prevent negative environmental effects such as pollution of underground waters and land and to protect human health. The producer must

store and/or dispose of the waste itself, or deliver it to a third party to do so, provided that the specific regulatory requirements are fulfilled, i.e. license and approval of environmental conditions. If it is the producer who collects and stores the waste, the disposal site must be authorised by the competent authorities pursuant to the relevant Peripheral Waste Management Plan and its managing body is subject to certain requirements.

As a general rule, activities connected to the disposal of waste require a special permit. The applicant must submit a study showing that the organisation and the operation of the site fulfill the legal requirements, and must provide financial guarantees. The person entrusted with the management of the site and the operations must be qualified for the proper function. The disposal site is subject to inspections by the competent authorities prior and during operation.

3.3 Do producers of waste retain any residual liability in respect of the waste where they have transferred it to another person for disposal/ treatment off-site (e.g. if the transferee/ultimate disposer goes bankrupt/ disappears)?

"The polluter pays" is a basic principle implemented into Greek legislation as regards the producer's extended liability for waste. In addition, each producer is obliged by law to ensure that the waste will be transferred and disposed of by a person qualified with the required licence. The infringement of several duties imposed to the producer by law leads to administrative fines and criminal penalties.

In the case of hazardous waste, the law gives the opportunity to the producer or any other possessor to pass their liability to the operator by transferring the so-called "recognition certificate" which accompanies the waste.

In the event that the ultimate disposer/operator decides to close down the disposal site, a special authorisation by the competent authority is needed. The operator is in charge of the maintenance and the observation of the disposal site for a time period defined by the competent authority.

3.4 To what extent do waste producers have obligations regarding the take-back and recovery of their waste?

The obligation for alternative management of waste is introduced by law 2939/2001 implementing 94/62/EC which sets out the terms and conditions for the alternative management of packaging waste and other products, aiming at the reuse or recycling of their waste in favour of environmental protection and public health. The competent institution for the planning and application of the waste alternative management policy is the non-profit legal entity named "National Organization for the Alternative Management of Packages and other Products - *ΕΟΕΔΣΑΠ*".

Presidential decree 116/2004 implementing the 2000/53/EC End of Life Vehicles Directive into Greek law introduces several obligations to producers of vehicles. The materials used for components of vehicles must enable further use and recycling. Producers are obliged to organise or participate in alternative management systems for the components of vehicles, which must be authorised by the competent authorities. The same obligation applies for the management of lubricants waste, pursuant to presidential decree 82/2004.

The WEEE Directive implemented by PD 117/2004 also introduces authorised collection systems. The producer is required to inform the consumer regarding the separate collection and disposal of electrical and electronic equipment waste and to disclose to the operators any information required for the facilitation of the reuse and recycling of the waste. The Batteries Directive has not been implemented into national legislation yet; however presidential decree 115/2004 refers to the management of all batteries circulating in the market, without prejudice to their type or materials.

The alternative waste management systems are subject to licensing by the Ministry of Environment until the EOEDSAP assumes this activity. In summary, all producers are obliged to participate, organise and fund waste collection systems complying with the requirements of national law as introduced by the respective EU Directives.

4 Liabilities

4.1 What types of liabilities can arise where there is a breach of environmental laws and/or permits, and what defences are typically available?

The law provides for civil, administrative and criminal liability for breaches of environmental laws and permits.

Law 1650/1986 provides for penal sanctions including fines and imprisonment against the person who pollutes the environment or undertakes a business activity without holding the necessary permit. The court may reduce the penalty if the offender takes significant measures to reduce the negative environmental impact. The most common defence presented by the offender is the lack of intention or negligence. Criminal liability can also be based on other laws such as law 743/1977 for the protection of the sea environment and law 998/1979 for the protection of forests.

Pursuant to law 1650/1986, the individual or legal entity which causes pollution is liable to compensate for the damage caused to any party, public or private, unless it proves the damage was caused by *force majeure* or intentionally by a third party. The parallel law 2251/1994 on consumer protection specifically regulates the civil liability for environmental damages of the producer of defective products. A usually invoked defence is the lack of causation between the act and the damage.

The general provisions on tort also apply. Article 914 of the Civil Code is the basic provision for liability in tort. It requires breach of law, intention or negligence, damage and causal connection between the action and the damage.

Directive 2004/35/EC, as amended by Directive 2006/21/EC on environmental liability with regard to the prevention and remedying of environmental damage, was implemented by Presidential Decree (PD) 148/2009. The operator of a polluting activity bears the costs for the preventive and remedial actions taken pursuant to the law for the prevention and restoration of environmental damage caused.

Law 1650/1986 and the PD 148/2009 provide for administrative sanctions, which include the suspension or revocation of the licence of the polluting unit to operate, and fines.

4.2 Can an operator be liable for environmental damage notwithstanding that the polluting activity is operated within permit limits?

Case law accepts that there is liability under law 1650/1986, irrespective whether the activity has been licensed and whether the licensing procedure has involved the acceptance by the licensing authority of an environmental impact study. The operator is released only if it can prove that the damage was caused by *force majeure* or by intentional actions of a third party.

For both civil and criminal liability, the fact that the operator has acted in compliance with the terms of the environmental permit does not release the operator, unless he proves he acted without intention, recklessness or negligence with regard to the detrimental activity.

PD 148/2009 specifically provides that compliance with the terms

and conditions defined in an environmental permit does not exempt an operator from liability for the cost of preventive and remedial measures; provided, an operator can prove that the environmental damage or an imminent threat thereof resulted from compliance with a compulsory order or instruction by a public authority.

4.3 Can directors and officers of corporations attract personal liabilities for environmental wrongdoing, and to what extent may they get insurance or rely on other indemnity protection in respect of such liabilities?

Pursuant to law 1650/1986, if the polluter is a legal entity then the chairman of the board of directors, the managing director and the officers involved in the management of the legal entity are subject to criminal liability, as they incur a special legal obligation to comply with the provisions for the protection of the environment. Their liability exists irrespective of whether other persons are directly liable for the damage.

The Civil Code provisions on tort (Articles 914 and 71) may also provide a legal basis for the civil liability of directors and officers. Insurance protection may be acquired; insurance may cover litigation costs and compensation for penalties paid.

4.4 What are the different implications from an environmental liability perspective of a share sale on the one hand and an asset purchase on the other?

When acquiring the shares of a company limited by shares, the new shareholders step into the position of the sellers. Liability stays at company level and is not directly transferred to the shareholders. Personal liability of the new directors and officers is subject to the provisions discussed above. The acquisition of partnerships may entail personal liability for the partners. Pursuant to article 479 of the Civil Code, the purchaser in asset deals is jointly and severally liable with the seller if the transferred assets comprise the whole business or a substantial part thereof. Purchaser's liability is restricted to the cumulative value of the acquired assets.

4.5 To what extent may lenders be liable for environmental wrongdoing and/or remediation costs?

The contractual relationship between the lender and the borrower of the project could only lead to liability of the lender if it would give the right to the lender to undertake control of the project and actually operate it by means of security interests. Mortgage on assets of the project, which is the most common case, does not give the lender such rights. A pledge on the shares of an operator may give the right to the pledgor to acquire control over the project, but it is the company and the legal representative or managing director who is liable under the conditions mentioned above.

5 Contaminated Land

5.1 What is the approach to liability for contamination (including historic contamination) of soil or groundwater?

The "polluter pays" principle is endorsed by presidential decree 148/2009, which implemented the Environmental Liability Directive 2004/35/EC. The principle was already present in pre-existing legislation, as introduced by law 1650/1984.

The liability depends on the type of activities undertaken by the operator, as described in the annexes of the presidential decree, and are connected to those activities regardless of any fault or negligence. However, in order for these regulations to apply, the law requires that the operator has been allocated by the competent authorities, the damage has been specified and that a causal link exists between the activity and the occurred or threatened environmental damage.

As a general rule, operators are obliged to apply the law with regard to the prevention and the remedy of any environmental damage or threat and to cover any related costs when they are liable for such damage. In addition, they are obliged to disclose to the competent authority any environmental damage and cooperate for the determination and application of the remedy measures.

In the event that there is an imminent threat of environmental damage, the operator is obliged to undertake instantly, under its own judgment, any preventive measures and to inform the competent authorities. The authorities may reform the measures undertaken, provide further instructions or ask for more information.

After the occurrence of the environmental damage the operator must inform the competent authorities, undertake the necessary measures to avoid further pollution, submit to the competent authority any remedy proposals and make its own risk assessments. The competent authorities define in cooperation with the operator the necessary measures to be undertaken.

The operator is burdened with all costs and expenses for the remedy and prevention of environmental damages (see also question 5.2 for allocation). The competent authority is entitled to recover remedy costs from the operator liable for causing the damage or threat directly, or via insurance coverage or other types of financial guarantees as suggested by the law. However, the operator may be released under the circumstances in the cases provided by law, e.g. if it proves that a third party is liable or that it did not act in fault or negligence.

With regard to contamination of groundwater, law 3199/2003 implementing the Water Framework Directive (2000/60/EC) provides for administrative fines and criminal sanctions.

5.2 How is liability allocated where more than one person is responsible for the contamination?

If the authority discovers that more than one operator are responsible for the cause of any environmental damage or threat, then all parties are jointly and severally liable for the payment of the remediation or prevention costs and expenses. As a result, according to the relevant articles of the Civil Code, the amount paid by any of the operators involved can be attributed by the other operators within a five-year limitation. The time of payment and acknowledgement of the co-liable operator triggers the limitation commencement. In any event, the limitation period lapses after 20 years from the payment. The payer may seek recourse against the other liable parties. Although the law does not specify, by way of interpretation recourse should be available against parties historically liable for the contamination.

If the environmental damage or threat has been caused by the use of a product, the operator may claim the costs and expenses paid from the producer, the importer or the supplier of the product under certain circumstances. Legislation on producer's or supplier's liability towards consumers also applies. For the allocation of the costs and expenses, any contributory fault or negligence of the competent authority or any other public authority is taken into account in favor of the operator.

5.3 If a programme of environmental remediation is 'agreed' with an environmental regulator can the regulator come back and require additional works or can a third party challenge the agreement?

The law equips the competent authorities with a wide range of

discretion as regards the measures necessary to prevent or reduce environmental damage, and at the same time provides that certain criteria are fulfilled. The general principles of administrative law on proper administration apply to delineate the framework within which administrative discretion may be exercised.

As mentioned in question 5.1, in cases of imminent threat of environmental damage preventive measures are required from the operator. These measures may be supplemented or reformed by the competent authorities to the necessary extent. When an environmental damage occurs, the operator, apart from any necessary measures to monitor and reduce further damages and adverse effects to human health, shall submit to the competent authorities a proposal to approve regarding the remediation measures to be undertaken.

The competent authorities shall invite any natural or legal entity affected or likely to be affected by the environmental damage or having sufficient interest in the environmental decision-making relating to damage and in any event the persons on whose land remedial measures would be carried out, to submit their observations and shall take them into account. The presidential decree does not give any further right to these persons to challenge the decision undertaken by the competent authorities; however, such decisions may be challenged before the administrative court, provided that general procedural preconditions apply, such as the existence of an enforceable administrative act. These persons may submit written information to the competent authorities regarding any environmental damage and request for action.

Any decision taken by the competent authorities regarding the preventive or remedial measures shall be justified and disclosed to the operator, who is informed at the same time of any appeals available and of the relevant time period within which it can challenge the measures imposed.

5.4 Does a person have a private right of action to seek contribution from a previous owner or occupier of contaminated land when that owner caused, in whole or in part, contamination; and to what extent is it possible for a polluter to transfer the risk of contaminated land liability to a purchaser?

The presidential decree explicitly excludes any civilian from pursuing remuneration as a result of environmental damage or imminent environmental threat. As already explained, the operator has the right to seek contribution from jointly liable operators or producers (see above question 5.2), including former land owners. This legal framework does not provide for any transfer of the risk of contaminated land liability. However, specialised legislation, e.g. on waste, provides for the possibility of risk transfer between the previous and the current owner of the waste (see above section 3). Please also see section 8 hereof.

5.5 Does the government have authority to obtain from a polluter, monetary damages for aesthetic harms to public assets, e.g., rivers?

The government may impose fines against a polluter for aesthetic harms to public assets, as for instance if urban planning provisions are violated.

6 Powers of Regulators

6.1 What powers do environmental regulators have to require production of documents, take samples, conduct site inspections, interview employees, etc.?

Local administrative authorities competent for approving the operation of an activity, the personnel of the Ministry of Environment Energy and Climate Change and more specifically the Units of Control of Environmental Quality, have the power to conduct audits for the observance of environmental law. Under article 26 of law 1650/1986, this power enables the Units to conduct site inspections, enter an installation at any time provided they observe safety rules, request from the person responsible for the operation of the activity all necessary information, and provide him access to data related to the inquiry. Moreover, articles 8 and 9 of the PD 148/2009 regulate the right of the Ministry of Environment Energy and Climate Change and of the Peripheries to require the operator to provide any relevant information not only when the damage has occurred but also when there is an imminent threat. Article 16 of the same PD provides for the power of the Department with Special Authority of Environment Inspectors (E.I.E.P.) to conduct audits and to undertake preventive and remedial measures on their own initiative or following a complaint.

7 Reporting / Disclosure Obligations

7.1 If pollution is found on a site, or discovered to be migrating off-site, must it be disclosed to an environmental regulator or potentially affected third parties?

According to articles 6 and 8 of the PD 148/2009, where environmental damage has occurred the operator shall without delay inform the competent authority, which is either the Ministry of Environment Energy and Climate Change or the Peripheries, depending on the extent and impacts of the pollution. The authority may require the operator to provide supplementary information and to assess the significance of the damage. The law does not provide for a direct obligation to disclose to third parties. However, this is a necessary measure to restrict the damage, which is an obligation of the operator.

7.2 When and under what circumstances does a person have an affirmative obligation to investigate land for contamination?

An obligation to investigate land for contamination may be based on articles 7, 8 and 9 PD 148/2009\, which regulate the obligation of an operator in case of imminent threat of environmental damage or after such damage has occurred, to inform the authority of the situation, to take measures and assess the gravity and seriousness of the damage.

7.3 To what extent is it necessary to disclose environmental problems, e.g. by a seller to a prospective purchaser in the context of merger and/or takeover transactions?

The obligation to disclose environmental problems arises from the general principles of contract law, to act in good faith and taking into account business usages as reflected in articles 281 and 288 of the Civil Code. In the example of a sale, non-disclosure may constitute a breach of pre-contractual representations by the seller. The existence of non-disclosed environmental problems shall be a material or legal defect of the transferred asset. In addition, the

seller may be subject to environmental liability to the extent that if he had forewarned the purchaser, a consecutive environmental damage could have been avoided.

8 General

8.1 Is it possible to use an environmental indemnity to limit exposure for actual or potential environment-related liabilities, and does making a payment to another person under an indemnity in respect of a matter (e.g. remediation) discharge the indemnifier's potential liability for that matter?

A contractual allocation of liability is binding on the contracting parties and not on public authorities and injured persons. An environmental indemnity may be contractually construed in various manners and include safeguards. The payment of compensation to an injured person by a third party discharges the indemnifier. The same applies to the payment of administrative fines, provided the payment is made on behalf of the fined person.

8.2 Is it possible to shelter environmental liabilities off balance sheet, and can a company be dissolved in order to escape environmental liabilities?

Activities that are likely to give rise to environmental liability could be developed through special purpose vehicles (SPVs), in the form of limited liability companies to restrict the financial impact. Another mechanism would be to allocate the ownership of assets and the legal right of use between different legal entities. This however does not release from liability the individuals involved.

Once a decision is made to wind-up a company, liquidation starts. In the liquidation process the assets of the company are used to satisfy third party claims. No balance can be distributed before that, otherwise the assets distributed shall be subject to reclaim by creditors. The reclaim is a cumbersome process with uncertain success. Similarly, if the business was undertaken by the same parties through another legal entity, that entity could be regarded as a successor in liability.

8.3 Can a person who holds shares in a company be held liable for breaches of environmental law and/or pollution caused by the company, and can a parent company be sued in its national court for pollution caused by a foreign subsidiary/affiliate?

Shareholders in a limited liability company cannot be held liable for breaches of the company to the extent they have no personal involvement as directors and officers. Piercing the corporate veil is a restricted option and may happen on an *ad hoc* basis in case such as of sole-shareholder limited companies, if the interests of the shareholder substantially coincide with those of the company and the shareholder has used the legal entity to isolate its own liability in a manner contrary to the duty to act in good faith and within the scope of company law.

The case is different in partnerships. These are either of the type of "*omorrythmi etairia*," where all partners are general partners and are liable for company liability with their own assets, and "*eterrorythmi etairia*," where there are two kinds of partners; the general and the limited ones. The limited partners' personal estate is not subject to liability for company debts.

A parent company as shareholder or partner can be sued on the conditions described above. Besides under the corporate law, a legal entity can be a member of the Board of Directors. This means that if the parent company has been appointed as a member of the board of directors and is responsible for the operation of the polluting activity, personal liability may arise under the conditions already mentioned under question 4.3 above. The courts having jurisdiction would be in civil law cases those of the place where the illegal act took place, or of the place of residence of the plaintiff or of one of the plaintiffs in case of several persons being sued and in criminal cases the courts of the place where the crime was committed.

8.4 Are there any laws to protect "whistle-blowers" who report environmental violations/matters?

Environmental law does not contain specific provisions for the protection of "whistle–blowers". Protection could be sought under the rules of criminal law by analogous application of the provisions regarding cooperation with the authorities in respect to organised crime; also, by recourse to article 84 of the Penal Code, which provides releases for the person who, although involved in the breach, has taken action to stop the criminal offence.

The consequences of breach of contractual confidentiality obligations will be examined in the framework of the principles of non-abusive exercise of rights and the obligation to act in good faith, as determined in articles 281 and 288 of the Civil Code.

8.5 Are group or "class" actions available for pursuing environmental claims, and are penal or exemplary damages available?

Compensation for environmental damage can be sought only by the injured persons who can act independently or submit a joint lawsuit; the lawsuit must specify the damage of each one of the claimants. Class actions are available on the basis of the consumer protection law 2251/1994 as amended, provided the legal basis for the lawsuit is a breach of its provisions, as in the case of defective products. Penal or exemplary damages are not attributed, other than under the consumer protection law.

In penal cases it is only the injured persons, the State, local self-government municipalities, Prefectures and the Technical Chamber of Greece that can be represented as "civil plaintiffs", i.e. as persons supporting the penal action as injured parties.

Actions by groups of persons can be raised before the administrative courts if the applicants can invoke justified interest related to the impacts of the administrative act they wish to challenge.

9 Emissions Trading and Climate Change

9.1 What emissions trading schemes are in operation in Greece and how is the emissions trading market developing there?

Greece is a contracting party to the Convention for Climate Change and has ratified the Kyoto Protocol by law 3017/2002. Under Council Decision 2002/358/EC concerning the approval of the Kyoto Protocol by the EU, Greece has committed to limit the increase of its greenhouse gas emissions for the period 2008 – 2012 to 25%.

Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community was implemented by the Common Ministerial Decision KYA 54409/2632/2004, designating the system for emission trading. Each Member State must develop and submit to the European Commission a National Allocation Plan (NAP) defining the total

quantity of allowances, their allocation among the installations subject to the plan, the rules on allocation and the operation of the system.

The national authority for the implementation of the trading system is the Ministry of Environment Energy and Climate Change (YPEKA) and more specifically the Office of Trade of Emission Rights. The Ministerial Committee composed by members of the Ministry of Environment and Climate Change, the Ministry of Finance Competitiveness and the Maritime, and the Ministry of Economy, regulated by MD 27706/2006, is responsible to coordinate the effort.

The Greek NAP for the period 2005-2007 was approved by MD KYA 36028/1604/2006 and respectively for 2008-2012 by MD KYA 52115/2790/103/2008. The NAP for 2008-2012 designates the criteria for the classification of joining-in installations in two classes; a general one; and one for co-production.

Pursuant to Regulation 916/2007 of the European Commission, a register was established which is kept by the National Centre of Environment and Continuous Development in cooperation with the Office for Trade of Emission Rights and registers the issue, transfer, assignment or invalidation of gas emission rights.

10 Asbestos

10.1 Is Greece likely to follow the experience of the US in terms of asbestos litigation?

Greece used to be one of the largest asbestos producers in the world. There has been extensive litigation by workers against employers who were convicted to the payment of damages, as despite being aware of the risk, they did not take the protective measures which the law provided. The quantum of damages is not comparable to the sums adjudicated in the US; however as employer companies have been liquidated, the victims or their families have never received a large part of the damages adjudicated.

10.2 What are the duties of owners/occupiers of premises in relation to asbestos on site?

Asbestos in the working environment is regulated by presidential decree 212/2006, which implemented Directive 83/477/EC as amended. The employer is subject to a number of duties aiming to protect the health of the employees and to prevent any hazardous consequences due to asbestos exposure at work.

The employer must prepare a risk assessment report and submit it to the Work Inspection Agency. It must take the necessary organisational and technical measures to avoid or minimize the employees' exposure to asbestos, including repeated measurements of asbestos limits on the site. In the event that asbestos exposure can not be avoided, Personal Protective Equipment including perspiration equipment shall be used. The sites must be labeled and the employees must be meticulously informed and instructed. Their medical files shall be regularly updated with the results of relevant medical examinations.

11 Environmental Insurance Liabilities

11.1 What types of environmental insurance are available in the market, and how big a role does environmental risks insurance play in Greece?

Article 23 of the Insurance Act (Law Number 2496/1997) provides that in the absence of a contrary agreement between the parties, an insurance policy for environmental risks will cover the expenses for remedy of the natural environment, which might also include cost for removal of waste and debris. Insurance money is paid only for cost actually paid if the damaged was caused by a sudden and unexpected event. Therefore, if the parties wish to cover third party injury and damage to assets, this should be specifically mentioned in the policy.

Directive 2004/35/EC was implemented into Greek Law by PD 148/2009. According to article 14, operators of business activities covered by the PD can use insurance or other means of financial security to cover their liability with regard to the cost of preventive and remedial measures against environmental damage. As of May 1, 2010 the use of instruments of financial security shall be compulsory. A joint Ministerial Decision should be issued by the Minister of Environment, Energy and Climate Change and the Minister of Finance, Competitiveness and the Maritime, to designate the rules for the application of this obligation. This is expected to contribute to the increase of the so far slow environmental insurance sector in Greece.

11.2 What is the environmental insurance claims experience in Greece?

There is very limited reported case law on environmental insurance claims.

12 Updates

12.1 Please provide, in no more than 300 words, a summary of any new cases, trends and developments in Environment Law in Greece.

The current attitude of regulators for environmental law is an alert for compliance with obligations undertaken at EU level and the Kyoto Protocol. The government has upgraded environmental policy to one of its primary goals and has proclaimed the "green development" as its motto, already at the pre-election phase. Energy law with specific focus on renewable energy sources is under re-examination as a means to face climate change; the stagnated licensing process is being accelerated. At household level, energy saving shall be facilitated by grants to modernise old buildings.

The acceleration of environmental licensing processes and of the relevant litigation are two targets where considerable efforts need to be exercised. Another area of priority for the Ministry of Environment Energy and Climate Change is waste management and the remediation of areas prejudiced through contamination caused by industries, such as the area of the river Asopos near Athens, and the licensing of urban planning developments affecting the greater Athens area.

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