

Execution of Foreign judgments and public commercial documents in Greece

In accordance with Greek Law, its procedural code and international agreements, a foreign title can be executed in Greece from the time it is pronounced as such by the district court having jurisdiction in the domicile of the debtor or if the debtor has no domicile, in the district court of the capital city. The judgment is pronounced executable by the magistrate when the following conditions have been addressed and found to be evident by the Court:

- a. That the judgment is a valid instrument of execution against the debtor in the country of issue.
- b. That the country of the court issuing the judgment in question had jurisdiction under Greek Law to try the case upon which the judgment was issued.
- c. That the opponent/debtor was ensured every right to appear present and defend his case in accordance with the laws of the country of the court of issue of the judgment in question.
- d. That this judgment is not contrary to a final judgment of a Greek Court involving the same parties under the same circumstances.
- e. That this judgment is not contrary to morality or public policy in general.

Among the bilateral, international agreements concerning execution of foreign judgments and public commercial documents that Greece has ratified into law, the International Agreement of November 1961 between Germany and Greece on bi-lateral recognition of judgments, settlements, and public credit notes issued against civil and commercial matters and further, the Brussels Agreement of 1968/78 on international jurisdiction and execution of judgments in civil and commercial claims (articles 25-30, 46-49), are prominent examples.

Of particular interest is article 50 of the above Brussels Agreement of 1968/78 where it is noted that other titles are included with judgments as valid instruments of execution against the debtor. These are public documents that convey and evidence undertakings but do not include claims (such as: my fees for services rendered are...). These documents are usually notarial, public authority issued documents such as, bills of lading, certified lease and agreements of sale and are executable in

Greece if they are valid and legal instruments of execution in the country and of issue and that the execution is not contrary to morality or public policy in general of Greece.

Notes on Insolvency

Greek Insolvency Law describes as insolvent, the merchant who has stopped his payments or has been registered as declaring, before the competent court, of the suspension of his payments and is thus considered to be under bankruptcy proceedings.

Upon pronouncement of bankruptcy by the competent court the bankrupt merchant is deprived of the administration of his property and assets. The court, in its judgment pronouncing bankruptcy, appoints an administrator/trustee to manage the bankrupt merchant's assets with the object of satisfaction of court expenses, costs and the creditors' proven and executable claims. The usual route is the liquidation of property and assets via public auction during the proceedings of which the consult of a "magistrate rapporteur" will be required.

All creditors claiming against the assets of the bankrupt merchant must submit their claims in good order to be verified by the appointed, as above, administrator/trustee during the legally publicized creditors meetings.

Creditors are distinguished as:

- (a) creditors that have claims prior to the date of pronouncement of bankruptcy
- (b) creditors that have claims as a result of the bankruptcy administrator/trustee's actions and
- (c) creditors that have claims against the bankrupt merchant resulting from the bankrupt merchant's actions after the pronouncement of bankruptcy.

Creditors of above category, (a) can satisfy their claims solely from those assets of the bankrupt merchant that existed on the date of pronouncement of bankruptcy. The creditors in above category, (b) also satisfy their claims solely from those assets of the bankrupt merchant that existed on the date of pronouncement of bankruptcy but enjoy priority over creditors of category, (a). Finally, creditors of above, category, (c) do

not have the requirements, by law, to register their claims against the bankrupt merchant's assets and are not participants in the bankruptcy proceedings. Their claims can only be satisfied against assets acquired by the bankrupt merchant after the pronouncement of bankruptcy and against any remaining assets of the bankrupt merchant after satisfaction of the creditors of above categories,(a) and (b).

The court may pronounce termination of bankruptcy proceedings at any stage and in any case it is evidenced that there are inadequate assets to finance the bankruptcy procedure. Bankruptcy proceedings are interrupted and revoked in the event the bankrupt merchant's proposal for settlement is accepted by the general meeting of creditors. The court must ratify the settlement.