

CHAPTER 23A

Greece*

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* References to Greek statutes consist of the statute type, number and year of enactment. All legislation is published in the State Gazette ("SG"). The names of courts consist of the district and court name ("SC in plen." meaning Supreme Court in Plenary Session, "SC" meaning Supreme Court, "CA" meaning Court of Appeals, "CFI" meaning Court of First Instance). References to legal writings in Greek are limited and followed by the indication "[Gr]". Court judgments are cited by court, number and year of publication, and title of the Greek journal, in which they appear. Greek journal abbreviations used are as follows: CLJ.: Commercial Law Journal (*Epitheorisi Emporikou Dikaiou*); CLR.: Commercial Law Review (*Episkopisi Emporikou Dikaiou*); HJ: Hellenic Justice (*Elliniki Dikaiosini*); Arm.: *Arm.*; MLR.: Maritime Law Review (*Epitheorisi Naftikou Dikaiou*); HJG.: Hellenic Jurists' Gazette (*Efimeris Ellinon Nomikon*); NV: *Nomiko Vima*; BCLR: Business & Company Law Review (*Dikaio Epichiriseon kai Etairion*); PLR: Piraeus Law Reports (*Piraiiki Nomologia*); D.: *Dike*; Dgr: *Dikografia*.

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Greek insolvency law remained substantially unaltered for the best part of the preceding decades, surviving in its majority the chapter on bankruptcy of the Napoleonic Code de Commerce of the year 1807. Few amendments were effected throughout the years, mainly purporting to implement, in a rather partial manner that lacked a holistic outlook, modern trends of insolvency law. An effort was made to reconcile the gap between the undoubtedly anachronistic legislation and the shifting socio economic conditions surrounding insolvency and reorganizations proceedings through case law. Although on instances this proved borderline sufficient in creating a link between the letter of the law and a pragmatic approach to financial hardship, the reality remained that Greek insolvency law had to be revisited at great length. The reform need was not limited to a mere update of current insolvency law provisions but had to expand to the entire legislative framework that governed financial hardship and default and to introduce new institutions for corporate debtors, incorporate consumer bankruptcy into Greek legal order and finally provide concise rules on extra-European cross border insolvencies.

Slow at start, the reform effort was entangled between long deliberations, which came hand in hand with the task of modernizing the anachronistic provisions of Greek insolvency law while at the same time trying to maintain Greek legal heritage on the

field, and the various converse interests involved in insolvency proceedings. In 2007, a draft bill was finally presented and went through the Greek Parliament to become the new Greek Insolvency Code (the "IC").¹

Effective as of 16 September 2007, the IC compiled numerous acts and miscellaneous provisions in a single instrument, codifying the main corpus of insolvency laws for private individuals and corporate entities, scattered around in various laws and legislative provisions under erstwhile legislation. In a broad sweep, the IC repealed all of the dozens of statutes, related instruments and dispersed legal provisions, comprising the old law, and the multitude of insolvency proceedings provided thereunder, codifying into a single instrument the body of rules governing insolvency, written in plain and modern language, free from the obscure archaisms of the old law.

Right from the outset, the IC makes apparent the intention to modernize its context. The term *ptohos* (meaning "poor" in Greek) that was used under the previous legislation is abandoned in favor of the term debtor, commonly found in insolvency codes around the globe. This forms part of the legislator's effort to reduce the stigma attached to insolvency proceedings in Greece, an approach that was also followed in subsequent amendments of the code, coupled with substantive law provisions that adhere to the second opportunity mentality that characterizes other insolvency codes in Europe and internationally. Furthermore, the code is now organized in Chapters, where each one is dedicated to a separate institution, bearing some resemblance to the US Bankruptcy Code. Although it may sound trivial, this is a significant improvement compared to the pre-2007 era where the lack of codification made even the finding of the applicable provision a cumbersome task.

Upon the surfacing of the first shortcomings in the operation of the new IC, amendments were introduced to facilitate the efficient operation of the new provisions, to the surprise of the unaccustomed to prompt legislative responses insolvency related actors. These were mainly geared towards the ever so promising Conciliation Procedure (Chapter 6, Art. 99-106), which partly observed the French model, and was introduced under the 2007 reform. The two consecutive amendments in 2009 and 2010 did not manage to improve its operation and in late 2011, the legislator finally replaced conciliation proceedings with the institution of rehabilitation, which returned to Greek legal order after a four year gap, having been abolished by the 2007 reform of the IC. However, the conciliation institution is briefly examined herein, given that the relevant provisions are still in place for pending cases.

In addition, the legislative framework governing insolvency proceedings in Greece was further contemplated in 2010 with the introduction of consumer bankruptcy proceedings.² This type of proceedings was missing from the Greek legal order on account of the traditional distinction under Greek law that consumer debtors are not

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¹ Law 3588/2007, SG A 153/10.7.2007, a full English translation of the Greek Insolvency Code is available at www.bazinas.com.

² Law 3869/2010, SG A 130/03.08.2010.