

Commercial – Corporate

A public consultation of a new draft law on the operation of the General Commercial Register (Γ.Ε.ΜΗ.) has ended on 20.09.2019. Principal aims of the draft provisions are, *inter alia*, the simplification and acceleration of all registration procedures, the elimination of bureaucracy, the interoperability/interconnection of the Register with the tax register or/and other registers managed by governmental authorities, the issuance and filing of a certificate of good standing for all registered undertakings.

A public consultation of a new draft law on the National Development Program has ended on 24.09.2019. The draft law adopts, *inter alia*, rules governing the preparation, coordination, management, financing, control and implementation of development initiatives financed by the Public Investments Program.

A public consultation of a new draft law on mediation in civil and commercial matters has ended on 14.10.2018. The provisions of this draft law amend the provisions of L.4512/2018 on mediation in civil and commercial matters and aim at rendering mediation as an alternative way of dispute settlement into a fundamental institution in the Greek society

A draft law under the title “I Invest in Greece” has been submitted to the Hellenic Parliament on 09.10.2019 and is currently debated by the competent committees. The law has as its main aim to introduce sweeping transformations, which will improve the overall competitiveness of the country. Let it be noted that in all recent OECD and World Bank surveys Greece scores very low in the relevant indexes.

In an effort to attract FDI, the draft law acknowledges that certain key investments qualify as “strategic investments”. The latter enjoy a series of privileges like simplified licensing procedures, certain deviations from existing building restrictions, protection from future adverse changes in the legal framework as well as tax breaks and other subsidies. Also, the draft law introduces the launch of the Comprehensive Digital Map, which will comprise all zone planning regulations across the country pertaining to investment or building activities, making it easier for prospective investors to know with legal certainty where and what they can and cannot do. Likewise, the draft law launches a Comprehensive Register of Infrastructure, which will clarify which entity (central government, peripheries or municipalities) is responsible for the maintenance of individual pieces of infra-structure, an area that currently is very problematic, due to overlaps of authority leading to eventual inertia.

Another key area of the draft law is the revamp of the institutional framework for the set-up and operation of new business. The draft law adopts as a starting point the rule that no specific license is required for setting-up a business. Cases where a license is required will be the exception rather than the rule and will be confined only to those activities where the protection of a vital public interest warrants a need for prior licensing.

Of critical importance are also the provisions of the draft law pertaining to collective bargaining in the field of employment.

Provisions of this draft law with a more day-to-day implications include, *inter alia*:

- (i) the introduction of an electronic “Register of Offenders for Undeclared Employment”, in which the undertakings-employers (natural persons and legal entities) sanctioned for hiring individuals without officially declaring their employment shall be registered;
- (ii) the adoption of measures for the protection of part-time employees. More specifically, (a) unless the agreement for part-time employment is filed in writing with the competent Labour Inspectorate within 8 days as of its execution, the employee should be considered as employed on a full-time basis; (b) the part-time employee who works overtime should be paid an additional 12% on his/her agreed remuneration for each additional working hour; (c) the part-time employee should enjoy the same working conditions with the full-time employee in the same job, and should have a right of priority - in case there is a vacancy in the same undertaking/employer - for being hired in a full-time role;

- (iii) delay in the payment of salaries beyond two months will be deemed to amount to unilateral harmful amendment of the employment contract, which entitles affected employees to consider their employment terminated and claim termination indemnity.

Tax Law

EU tax case-law: EU General Court has dismissed Starbucks tax ruling case (2015), upheld, however, FIAT tax ruling case (2015). The EU general court rejected in late September 2019 the European Commission’s decision that Starbucks had enjoyed a selective advantage in the Netherlands but confirmed assessment that Fiat had benefited from an unlawful tax ruling in Luxembourg. In a highly anticipated ruling the Luxembourg-based General Court said that EU competition directorate had failed to demonstrate that Starbucks had benefited from illegal state subsidies. In a 2015 decision against Starbucks, the former competition commissioner Joaquin Almunia had ordered the Netherlands to recoup millions of euros in unpaid taxes. The Netherlands has actually recovered €25.7 million, as a result of the aforementioned decision, which the General Court recently annulled. The EU General Court, however, upheld the second decision issued in 2015 on the FIAT state aid case that led to Luxembourg recovering €23.1 million from FIAT Chrysler Automobiles. Competition Commissioner Margrethe Vestager said in a statement following the rulings: “Each case has its specificities and involves complex legal questions. We will study the judgments carefully before deciding on possible next steps.” According to the Commissioner, the

decisions gave “important guidance on the application of EU state aid rules in the area of taxation.” However, the EU Commission has not confirmed yet whether it will appeal the Starbucks ruling to the European Court of Justice, the EU’s highest court.

Employment Law

Electronic filing of the Annual (2019) Staff Establishment Plan

From 1st until 31st of October 2019 all employers should file the annual staff directory of their undertaking/company by registering the full details of each member of the entire staff - permanent or seasonal - employed in their business at the time of filing, according to the provisions of article 16 par.1 of L.2874/2000. In case the Annual Staff Directory has not been filed within the deadlines provided by law, a penalty for no-filing is imposed and the violation is considered to be “highly severe”.

The Hellenic Council of State has ruled that fundamental provisions of the 2016 social security leg-

islation (L.4387/2016), are unconstitutional, according to relevant decisions published in early October 2019. More specifically, the Supreme Administrative Court has ruled that the method provided by L.4387/2016 for the calculation of the social security contributions of the self-employed individuals - independent professionals is unconstitutional, because it is discriminatory compared to the respective method adopted for the calculation of the social security contributions of the employees. Furthermore, the provisions of this law regulating the calculation of supplementary retirement pensions were also held to be unconstitutional.

GDPR

The Greek Data Protection Authority has imposed on a telecommunication provider fines of an amount of €400,000.00 for the violation of the data accuracy principle (art. 5.1(d) GDPR), of the data subject’s right to object to data processing for direct marketing purposes (art. 21 par. 3 GDPR) and data protection failures(art. 25 GDPR).