

Collection Profile Greece

Collecting in Greece

- Late payments in Greece are frequent and, despite regular improvements, the average DSO remains high compared to other EU markets – 100 days on average. This is not entirely surprising as the law has implemented EU rules on late payment with flexibility.
- Although the courts are fairly reliable, the legal process remains slow, despite recent procedural amendments to comply with EU requirements in order to streamline of the process. Enforcement may also be difficult as debtors are often well aware of loopholes in the system.
- Insolvency law provides a debt renegotiation mechanism, although collecting money at this stage remains a significant challenge.

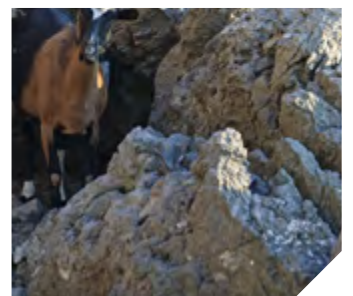
Collection complexity



Complexity relating to

Notable Severe
→

	Notable	Severe
Payments	\$ \$ \$ \$	
Court proceedings	⚖️ ⚖️ ⚖️ ⚖️	
Insolvency proceedings	↘️ ↘️ ↘️ ↘️	



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General information

Availability of financial information

Obtaining financial information on domestic companies is generally achievable but the legal status of the operators must be taken into account. Listed Companies have publication obligations while SA and Limited Companies would communicate their financials to the trade registry, but delays may apply in practice. Partnerships and sole proprietorship operators, however, have no such obligations. Thus, the availability of their financials would tend to be rather uncertain and, although private channels may help in obtaining reputational information, specialized data providers are highly recommended. Euler Hermes allocates each company a grade reflecting its creditworthiness and how it conducts business. Grades represent a core of our knowledge and a synthesis of the buyers' risk analysis. Data and information supporting the grade assessment is continuously monitored and gathered by internal departments to offer the most up-to-date information and to support management decisions.

Main corporate structures

Liability for business debts is determined by legal structures, which are described as follows:

- Businesses which do not require a commercial organization may be operated by one private individual registered as a Sole Trader. Two or more individuals may also decide to share ownership and responsibilities through Partnerships (Omóritimi Etería, OE), in which case the partners are jointly and individually liable for the actions of the other partners (while increasing fundraising capacity). Limited Partnerships (Eteróritimi Etería, EE) may alternatively offer limited liability to some of the partners.
- Incorporated entities may also be relied upon. Limited Liability Companies (Etairia periorismenis efthisis, EPE) are popular because the shareholders are only liable to the company's debts in relation to their capital contribution. Since 2013, the minimum capital fund of EUR 4,500 is no longer mandatory. A more flexible form of Limited Company (Idiotiki Kefalaouchiki Etería, IKE) requiring a minimum capital of EUR 1 and allowing for increased flexibility in shareholding and decision making was also introduced in 2012 (Law 4072/2012).
- Larger businesses would rather be set up through Joint-Stock Corporations or Public Limited Companies (Anónimi Etería, AE), for which a minimum capital of EUR 60,000 is required. In this type of company, the shareholders are only liable for the value of their share, while debts may only be recuperated on the company's assets.
- Often, foreign investors decide to settle in Greece through a Branch entity dependent on the parent company even though it is managed by a local representative who is jointly and severally liable. In this situation, the parent company may be held liable for the Branch's activities; therefore establishing subsidiaries through independent EPE structures is also frequent.



Days Sales Outstanding (DSO): Late payments in Greece are frequent, with an average of 100 days required for bills to be settled.



Regulatory environment

Greece has a Civil Law system inspired by the French and German legal framework. The law is therefore largely codified and the courts are not bound by precedents, even though consistent decisions tend to be used for guideline purposes. Since a reform conducted in 2012, claims below EUR 20,000 fall under the jurisdiction of the Justices of the Peace Tribunals (Eirinodikeio), and claims up to EUR 250,000 are dealt with by Single-Member Courts of First Instance (Monomeles Protodikeio). Claims in excess of this amount are dealt with by Multi-Member Courts of First Instance (Polymeles Protodikeio). Further reforms effective since 1 January 2016 aim to ease the procedures in Civil Courts in order to decrease delays.

Getting Paid

Days Sales Outstanding (DSO)

Late payments in Greece are frequent and in 2015 bills were settled in 100 days on average compared to 106 days in 2014, showing a slowly improving trend. However, it still remains higher than in other EU countries.

Late payment interest

Late payment interest may be charged to the debtor on the first overdue day. The Recast Directive 2011/7/EU, which stipulates that payments in the EU must be made within 60 days, was transposed into domestic law through Law 4152/2013 (which retroactively entered into force on 16 March 2013). In contrast to the regulations set forth in most EU Member States, late payment rules in Greece are very comprehensive in that, as a general rule, payment terms in business-to-business transactions must not exceed 60 calendar days unless otherwise agreed by contract and provided that the delays are not grossly unfair to the creditor. Beyond this point, interest may be due as negotiated by the parties, but in any case the law allows creditors to charge an automatic interest rate reaching approximately 7.3%.

Debt collection costs

In theory, the transposition of the Recast Directive 2011/7/EU into domestic law would entitle a creditor to charge a flat EUR 40 collection fee when payment is late. In practice, however, it is very uncommon to do so unless a claim is brought to court.

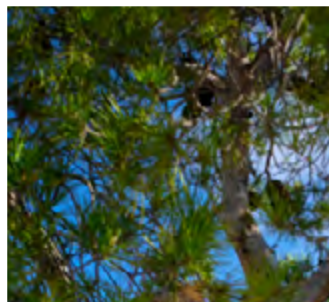
Ownership protection

Retention of Title (RoT) provisions are considered under Article 532 of the Greek Civil Code, which allows the parties to retain ownership over goods until the related invoice has been fully paid. In addition, the Greek Civil Code provides a compensation for the loss of ownership when the goods have been transformed by the buyer and cannot be identified anymore.

Although this is not mandatory, creditors may register RoT agreements with a special registry (Statute 2844/2000). In practice, RoT clauses remain rare and enforcement proceedings remain lengthy, but these would nonetheless allow a debtor to recuperate goods as part of the pre-legal or legal action process.

Payments

- Sepa bank transfers are among the most popular payment means as they are fast, secured, and supported by an increasingly developed banking network internationally and domestically. Euler Hermes' worldwide network of risk offices monitors the financial well-being of customers and grants them a specific credit limit up to which clients may trade and claim should something go wrong. Alternatively, Standby Letters of Credit (a bank guarantees the debtor's credit quality and repayment abilities) are increasingly used as they constitute reliable guarantees.
- Other means of payment used for domestic and international transactions can be checks which constitute interesting guarantees



Late payment interest:

The law allows creditors to charge an automatic interest rate reaching approximately 7.3%.



as bad bouncing may lead to penal prosecution, but also bills of exchange. Promissory letters (hyposhetiki epistoloi) are similarly used as debt recognition documents coming from the debtor's bank and affirming that they are committed to pay the debt in time. Generally speaking, bank guarantees remain costly. Therefore, requesting down payments is advisable. Since June 2015, capital controls have been imposed by the Greek Government. According to this decision, all payments directed abroad are subject to a specific procedure and controlled by Minister of Finance and representative bank. After the initial adjustment, the flow of payments has followed a stable trend without any disruption. Since then, several measures have been taken to ease the initial restrictions and they are still progressing. Despite capital controls still remaining officially in place, current payments abroad are not burdened or affected by this limitation.

Collecting overdues

Amicable action

Negotiating

Amicable settlement opportunities (including Alternative Dispute Resolution Methods) should always be considered as a strong alternative to formal proceedings since domestic courts, despite being transparent and fairly reliable, tend to be slow. Before starting legal proceedings against a debtor, assessment of assets is important as it allows verification as to whether the company is still active and whether recovery chances are at best. In addition, it is essential to be aware of the debtor's solvency status: if insolvency proceedings have been initiated, it indeed becomes impossible to enforce a debt.

Legal action

Ordinary proceedings

Legal dunning starts with a registered Demand Letter reminding the debtor of their obligation to pay the principal and the late payment interest (as contractually agreed or taking a legal rate as reference). Should the debtor fail to pay, and provided that the claim is undisputed, the creditor may request a Payment Order (Diataghi Pliromis) before the court of first instance or with the Justices of the Peace. The debtor's presence is not necessary, but all documents must be translated into Greek in order to be considered. After examination of the request, the court may agree to issue the requested Payment Order. The debtor is given three days to pay the debt (the Payment Order then becomes immediately enforceable) or to file a defence (opposition does not have any suspense effect on the Order), in which case it becomes necessary to commence ordinary legal action. The deadline for filing a defence is 15 working days, if the Payment Order has been issued against a debtor whose residence or registered office is in Greece, and 30 days if the debtor's residence or registered office is abroad, or their stay is unknown. The Payment Order fast-track procedure usually takes three to four months depending on the courts' workload and remains the best tool in collecting debt. Such proceedings may also be commenced on the basis of bounced checks (judgment would be obtained in three to five months). When the debtor has assets in other EU Member States, a European Payment Order procedure (facilitating the recovery of undisputed debts under Regulation EC No 1896/2006) may then be triggered. In this case, the creditor may request a domestic court to issue an Order to Pay which would then be enforceable in all EU countries (except Denmark) without exequatur proceedings.

Ordinary legal action (agogi) would usually commence when amicable collection has failed and when the issuance of a Payment Order is not possible. Important amendments to the provisions of the Hellenic Civil Procedural Code have come into effect from 1 January 2016 by virtue of Law 4335/2015. The relevant amendments cover virtually the whole scope of Civil Procedural Code, so as to constitute a radical reformation of the procedural framework aiming at the acceleration of granting

justice on the basis of the principle of the economy of the proceedings. In this context, two major changes can be highlighted:

1. The partially oral hearing undertaken in ordinary proceedings before the Courts of First Instance is replaced by a written procedure. The examination of witnesses is required only in exceptional cases.
2. Specific deadlines are set for the conclusion of the procedure from the filing of the lawsuit to the submission of the briefs and all required evidence (145 days maximum) and from the closure of the case to the hearing (45 days). Therefore, the case will be discussed in a period of 6 months maximum from the filing of the lawsuit which is a considerable improvement compared to the previous practice where it was quite common for the hearing to take place a year and a half to two years after the filing of the lawsuit

This procedure is applicable for lawsuits that have been filed after the day the Law has been put into effect. For the lawsuits filed before this date, the old procedure is still applicable. In any case, being represented by a local attorney is mandatory.

Necessary documents

Pursuant to the latest amendments described, the new procedure for ordinary legal action is based exclusively on the documentation provided; therefore it is crucial to receive complete documentation supporting the claim as soon as possible. All the documents have to be submitted in their original form (or an official copy) and documents in a foreign language must be accompanied by an official translation. The necessary documents are as follows:

- Original unpaid invoices or the unpaid bill of exchange or the unpaid checks (or certified copies)
- Original delivery notes (CMR, Bill of Lading..) duly signed by the buyer or certified copies
- The orders sent by the buyer
- A certified copy of the pages of the creditor's accountancy book where due invoices are listed (or bills of exchange or the check)
- Any other contract or essential communication between creditor and debtor

Collection @ Euler Hermes

It is always advised to attempt collection prior to any legal action in order to maximize chances of successful recovery and avoid legal costs and delays. Our key principle is to collect in close proximity to the debtor, using a series of letters, emails and phone calls in the local debtor language. Our World Collection Network of Euler Hermes offices and external providers are experts in professional trade debt collection and negotiation, ensuring positive outcomes while retaining important client relationships. Euler Hermes can handle the complete collections process from amicable, pre-legal action through to judgment and enforcement.

- A proxy signed by the creditor is necessary depending on the specific process or phase of the case

Furthermore, since the oral debate on the hearing date has been abolished and replaced by a written procedure, the testimony of witnesses (five maximum during the submission of all evidence until the closure of the case) must be provided by affidavit, usually stated before a Notary Public. In case the witness resides abroad, the procedure for receipt of the affidavit takes place at the appropriate consulate, following all legitimate publicity procedures and deadlines. Being represented by a local attorney is strongly advisable.

Time limitations

Commercial claims must be brought within five years, starting from the original due date. Unfair competition claims must be brought within a year and a half starting from the knowledge of the event. Moreover, compensation for illegal actions can be claimed within five years, starting from the illegal event. Beyond these time limitations, legal action may not be granted.

Provisional measures

Provisional measures may help to preserve the creditor's interests pending a final and enforceable judgment. The courts may help prevent irreparable harm (freezing injunctions, protective injunctions, mandatory injunctions, attachment orders to preserve assets, etc.). In case of a particular emergency, the court may also take provisional measures ex parte (without the presence of both parties). In practice, requesting such measures is considered to be very aggressive and would exercise strong pressure upon the debtor, thus possibly leading to a settlement.

Lodging an appeal

The parties are entitled by law to lodge an appeal without any court authorisation being required, therefore appeals are nearly systematic. Of course in the meantime interests are calculated so the creditor would in the end be entitled to a larger amount, but this nonetheless furthers procedural delays and costs. Appeal requests must be filed within thirty days from notification to the parties. The courts will then reconsider the decision rendered in first instance, on factual and legal grounds.

Although this is rare in relation to commercial debt disputes, in case of a dispute over a legal issue the defeated party is entitled to appeal to the Supreme Court. If the appeal is accepted, the Supreme Court will command the case to be brought again in front of the Appeal Court in order to be re-discussed. In practice after the Supreme Court Judgement all parties settle the issue accordingly with no further delay.

Enforcing court decisions

Enforcement may commence once a judgment is final (i.e. if no appeal is lodged within one month). If the debtor fails to satisfy the judgment, the latter is enforceable directly through the attachment of the debtor's assets.

Although enforcement may be immediate, the process may be costly and time consuming depending on whether the debtor's assets can

be identified. Furthermore, the debtor may object to the enforcement procedure when appeal proceedings are unsuccessful or when the claim's value is allegedly wrong, which may generate further delays. It is thus preferable to choose garnishment proceedings especially on debtor's bank accounts as this action is less expensive and more efficient.

How long could legal action take?

The timescale to obtain a court decision varies and depends on the procedure, on the tribunal and on the context of the file. Obtaining a fast-track Payment Order may require three to five months. Ordinary legal proceedings take much longer – even though the timescale has been considerably reduced after the amendments to the Code of Civil Procedure – with the current required time to receive a first instance decision as approximately one year. Domestic courts would not consider claims involving a foreign party differently from those involving domestic parties. However, some delays may be expected when a foreign party is involved, especially if documents must be translated.

How much could this cost?

The courts normally award costs to the defeated party, naming the exact amount in the decision. Cost calculations are left to the court's discretion but are not based on the invoices or the successful party's estimates. Cost awards are not systematic and the courts typically reject them when it is found that use of the judicial institutions was legitimate and necessary. Court fees would be charged to the creditor, but their amount would depend on the procedure and on the value of the case. All types of agreements are relied upon in practice, for example: a lawyer can pay all judicial costs and receive a percentage of the award upon success (usually 20% of the amount), another would ask for the judicial costs and some fixed fees no matter the final result of the case, another can apply charges per work hours (depending on his seniority), etc. matter the final result of the case, another can apply charges per work-hours (depending on his seniority), etc.



Litigation @ Euler Hermes

Should legal action be necessary Euler Hermes can provide support throughout the legal process from judgment to enforcement via our World Collection Network of Euler Hermes offices and external providers. Legal action can often be complicated and expensive, so you will be informed of all costs prior to any action and advised on which route is best to take.

Alternative options to legal action

Alternative Dispute Resolution methods (ADR)

When obtaining a Payment Order is not possible due to the claim being disputed, arbitration is an Alternative Dispute Resolution method which is very common in Greece, especially when a case involves technical disputes or in large and sensitive deals as arbitration provides confidentiality. It should, however, be noted that an arbitration clause has to be very detailed in order for the defeated party not to have the opportunity to override the arbitration decision through civil procedure.

On the other hand, Law 3898/2010 on Mediation in Civil and Commercial Disputes (which transposed Directive 2008/52/EC) allows the parties to decide to make use of mediation at any stage, but this method is still not commonly relied upon.

Seeking legal advice on these subject matters is therefore important.

Foreign forums

Alternatively, when obtaining a Payment Order is impossible and provided that the case is complex and important amounts are at stake, obtaining and enforcing a foreign decision may be a viable alternative (although it is rarely used in relation to debt collection). This is because Greece is a signatory to the Rome I Regulation on the law applicable to contractual obligations, which stipulates that the parties to a contract may, by mutual agreement, choose the law applicable to this contract, and select the court that will have jurisdiction over disputes. Therefore, the parties may alternatively agree to solve their business disputes in a foreign forum (i.e. under a foreign law or before a foreign court) as Greek courts generally enforce foreign jurisdiction agreements. It is essential that the agreement be characterized by an international connection (for example, one party has elected domicile in another country, or the place of execution is located abroad), and that a jurisdiction clause is specifically drafted for this purpose.

Enforcing foreign awards

Various circumstances may apply when it comes to enforcing a foreign judgment. On the one hand, decisions rendered in an EU country would benefit from particularly advantageous enforcement conditions. Apart from EU Payment Orders which are normally enforceable directly in domestic courts, the two main methods of enforcing an EU judgment in Greece are by the use of a European Enforcement Order (EEO, under Regulation EC No. 805/2004) when the claim is undisputed, or by registering the judgment under the provisions of the Brussels I Regulation (44/2001).

If the judgment qualifies as an uncontested claim, it can be enforced directly (i.e. without registration) by use of an EEO provided that the debtor has identified assets in the country. A European Small Claims Procedure (Regulation EC 861/2007) aiming at eliminating intermediate steps may similarly be relied upon while enforcing decisions up to EUR 2,000.

If the claim is disputed, the procedure for registering an EU judgment with domestic courts is relatively simple. The judgment holder must apply to the relevant court for the judgment to be registered and



provide the court with, among other documents, an authenticated copy of the judgment, a certified translation of the judgment and, if interest is claimed, a statement confirming the amount and rate of interest at the date of the application and going forward. Once the judgment has been registered, it can be enforced as if it were issued by domestic courts (according to the Recast Regulation EC 1215/2012, such an exequatur procedure is no longer required from January 2015).

On the other hand, judgments rendered in foreign countries outside the EU would be automatically recognized and enforced according to reciprocal enforcement treaties. In the absence of reciprocal arrangements, exequatur proceedings would take place (Article 323, 780 of the Code of Civil Procedure): the court would verify that (i) the foreign decision is final and enforceable in the issuing jurisdiction and that it does not contradict a decision previously rendered by a Greek tribunal, (ii) the defeated party benefited from a due process of law, and (iii) the judgment is not contrary to public policy and morality.

Request for enforcement of foreign judgments must be brought to the Single Member court of first instance, which in certain occasions may recognize only part of a judgment and alter damage awards. Greece is a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958, therefore its domestic courts ought to recognize and enforce awards rendered through international arbitration proceedings.



Handling insolvent debtors

Insolvency in Greece is a matter of cash-flow: a debtor is deemed insolvent once it is permanently incapable of paying its debts as they fall due.

The Greek Bankruptcy Code was enacted in 2007 (Law 3588/2007, as amended in 2010, 2011, 2012, 2015 and most recently in December 2016) to harmonize a fragmented legal framework. It introduced a debt reorganization process as a means to avoid systematic liquidation of viable companies in temporary financial difficulty. In addition, the most recent amendments to the law aimed at decreasing delays and ensuring that debtors would no longer be able to use insolvency proceedings to delay payments any further.

Nonetheless, collecting money out of insolvency proceedings remains very difficult.

Insolvency proceedings

Out-of-Court proceedings

Any out of court settlement requires ratification by the court, although agreement before a Notary Public can be sufficient. Law 4469/2017, recently adopted by the Greek Parliament and published on 3 May 2017, introduces a new process of extrajudicial debt settlement for individuals and legal entities under specific conditions and with optional ratification of the court. The procedure is initiated through an application of the debtor, including a proposal for the settlement of their debts, and aims to conclude a debt settlement agreement with the mediation of a coordinator. The new law entered into force three months after its publication, in August 2017, and will cover debts which are overdue as of 31 December 2016.

Restructuring the debt:

In the absence of specialized Insolvency Courts, insolvency has traditionally been managed by the Multi-Member Courts of first instance in the district in which the debtor is domiciled, through pre-bankruptcy recovery procedures allowing debtors to negotiate agreements with creditors (prepack sales of the business, sales of assets, debt-equity swaps, contract terms alterations, debt refinancing, debt write-downs, etc.). There is no minimum quorum for such agreements, but in order to bind the non-consenting creditors a consensus should be obtained with a majority of 60% of the total claims (40% of which must be secured). During this procedure, all individual and collective enforcement actions of creditors are stayed automatically for a period of four months, subject to extension to the end of the proceedings, in order to prevent the dissipation of firm value and the hampering of the restructuring prospects of the debtor's business. This automatic stay was introduced by Law 4446/2016 which amended Bankruptcy Code.

As a key feature of the new insolvency system, Article 99 of the Code now provides a rehabilitation procedure which commences either at the debtor's request or, according to the latest amendments introduced in the last revision of Bankruptcy Code, upon agreement between creditors without the debtor's participation, provided that the debtor is already in a status of cessation of payments. This new possibility widens the scope of pre-bankruptcy procedures and aims at forcing reluctant debtors to undertake rehabilitation instead of being declared bankrupt. The reorganization process starts with the submission of a plan to the court made by specialists (auditors, banks etc.), which conducts a judicial review of the proposed plan while a court-appointed mediator assesses the creditors' expectations. The plan may only be validated upon approval by creditors representing 60% of the total debt.

The debtor is absolved from all criminal sanctions (such as post-dated checks which were not honored). When no agreement has been reached, the court may order a liquidation phase upon request.

Winding up proceedings

Liquidation commences with an insolvency petition. As a general rule, insolvent companies must file a bankruptcy petition within thirty days following cessation of payments (voluntary liquidation) but creditors may also bring a claim against the debtor (involuntary liquidation). The creditors are then invited to file their claims within 30 days. The proceedings may commence under the supervision of an administrator as soon as the debts are verified. In addition, a Pool of Creditors (i.e. three members representing each class of creditor) would be given the responsibility of overseeing the proceedings, which terminate once the proceeds of the sale of the business' assets are distributed.

Priority rules

Priority rules apply while distributing the proceeds to the creditors. The Hellenic Civil Procedural Code provides the range of priority rules and allows various classes of creditors (secured creditors, preferential creditors, unsecured creditors and subordinated creditors). RoT holders would not benefit from a particular priority over the other creditors, however the goods protected under the RoT would not be included into the liquidated property and would be returned to the owner provided they can be identified.

Cancellation of suspect transactions (clawback)

Administrators are entitled to review and cancel any legal action conducted by the debtor during a 'suspect period' commencing when the debtor actually ceased payments, up to five years prior to the declaration of insolvency. Typically, transactions favoring one creditor over the others or reducing the estate's value (fraudulent acts, undervalue or gratuitous acts, etc.) could be void.

How long could insolvency proceedings take?

Insolvency proceedings may take several years. However, it is important to underline the efforts made by the Greek legislator, in line with the Restructuring Recommendation of the European Commission issued in 2014, in order to establish a more efficient Greek insolvency and restructuring law.

Necessary documents

- A proxy signed by the creditor
- Original unpaid invoices or the unpaid bill of exchange or the unpaid check (or certified copies)
- Original delivery notes (CMR, Bill of Lading, etc.) duly signed by the buyer or certified copies
- Orders sent by the buyer
- A certified copy of the creditor's accountancy book where the invoices due are listed (or the bill of exchange or the check)
- Any other contract or essential communication between creditor and debtor



Insolvency @ Euler Hermes

Euler Hermes works closely with debtors, creditors and lawyers to provide support during insolvency and restructuring processes. With many options available when it comes to insolvency action, we can offer advice on which option is most suitable.

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