

ASSET RECOVERY

Greece



Asset Recovery

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Quick reference guide enabling side-by-side comparison of local insights into civil asset recovery (including jurisdictional issues, procedure, and remedies and relief); criminal asset recovery (including legal framework, cross-border considerations, and private prosecutions); and recent trends.

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CIVIL ASSET RECOVERY – JURISDICTIONAL ISSUES

Parallel proceedings

Is there any restriction on civil proceedings progressing in parallel with, or in advance of, criminal proceedings concerning the same subject matter?

No. However, civil proceedings may be suspended until a final judgment in the criminal proceedings is issued.

Law stated - 12 July 2023

Forum

In which court should proceedings be brought?

A victim of fraud may file an action in tort against the defendant with the competent court of first instance seeking restitution for the loss or damage sustained (article 914 et seq of the Greek Civil Code (GCivC)).

The general rule lies with the jurisdiction of the courts of the defendant's place of residence (article 22 of the Greek Code of Civil Procedure (CCivPr)) or, concurrently in the case of tort (article 35 of the CCivPr), of the courts of the location where the damaging incident took place or where such damaging effect is threatened.

Concerning the monetary value of the claim, as a general rule, Greek courts of first instance are divided into the following:

- courts of small claims: hearing disputes up to €20,000;
- single-member courts of first instance: hearing disputes from €20,000 to €250,000; and
- multi-member courts of first instance: hearing disputes exceeding €250,000.

Law stated - 12 July 2023

Limitation

What are the time limits for starting civil court proceedings?

The right of the defrauded party to issue civil court proceedings lapses five years after the claimant has acquired knowledge of the commission of the fraudulent act and the party liable for compensation. Further, the claim is prescribed after 20 years from the date the wrongful act was committed. If the fraudulent act also constitutes a criminal offence, which is subject to a longer limitation period, preclusion of the civil claims follows the latter (article 937 of the GCivC). The limitation period of the civil action is interrupted after filing said action with the competent court of first instance.

Law stated - 12 July 2023

Jurisdiction

In what circumstances does the civil court have jurisdiction? How can a defendant challenge jurisdiction?

Although the court may decide on its own initiative regarding matters of jurisdiction, the defendant may challenge jurisdiction by filing an objection during the stage of the filing of the pleadings.

CIVIL ASSET RECOVERY – PROCEDURE**Time frame**

What is the usual time frame for a claim to reach trial?

According to the Greek Code of Civil Procedure (CCivPr), the claimant has to serve the civil complaint on the defendant within 30 days of its submission to the competent court. Should the defendant reside abroad or his or her address is unknown, the deadline is 60 days.

Following the submission of the civil complaint, a period of 100 days is granted to the parties to file their pleading, as well as all supporting evidence. For defendants residing abroad, the deadline is 130 days.

After the expiry of the above-mentioned deadline for the pleadings, the parties are granted 15 additional days to file their rebuttals. After the expiry of the rebuttals' deadline, the case file is considered complete and a judge is assigned to the case.

Within 30 days of the assignment of a judge, a trial date is set.

Law stated - 12 July 2023

Admissibility of evidence

What rules apply to the admissibility of evidence in civil proceedings?

All information obtained lawfully may constitute means of proof and be used as such in civil proceedings before the courts. The general principle is that evidence must be relevant to the case under consideration and focus on the factual basis of the civil action (article 335 of the CCivPr). Means of proof under article 339 of the CCivPr are as follows:

- the confession of a litigant;
- the inspection of premises;
- the experts' reports;
- the witnesses and their testimonies before the courts;
- the examination of litigants;
- the documents;
- the judicial presumptions; and
- the sworn written testimonies.

The evaluation of evidence is made freely by the court, except for facts stated in public documents or facts confessed by litigants, which are accepted as true. The court may weigh the specific means of evidence in any way it deems proper to reach its ruling (article 340 of the CCivPr). Moreover, the civil court's decision must expressly state the reasons that led the judge to reach his or her ruling.

Law stated - 12 July 2023

Witnesses

What powers are available to compel witnesses to give evidence?

Witnesses cannot be compelled to provide evidence in civil proceedings.

Law stated - 12 July 2023

Publicly available information

What sources of information about assets are publicly available?

The Land Registry, which includes the following:

- mortgage offices: in mortgage offices, a property cannot be located by its address, but it is registered under the name of the owner of the property because properties are registered based on the legal titles (contracts) regarding their transfer; and
- cadastre offices, which are gradually replacing mortgage offices.

The General Commercial Registry (GEMH) was established by Law No. 3419/2005 to promote transparency when conducting a commercial activity, which includes corporate information on all types of companies registered with the GEMH such as corporate information on the registration, corporate status, articles of association, existing directors and their duties, annual financial statements, etc. Older information is still available through corporate announcements made in the Greek Government Gazette .

The Trademark Registry is accessible through the competent office of the Ministry of Development, Competitiveness, Infrastructure, Transport and Networks.

Law stated - 12 July 2023

Cooperation with law enforcement agencies

Can information and evidence be obtained from law enforcement and regulatory agencies for use in civil proceedings?

Evidence from law enforcement and regulatory agencies may be obtained for use in civil proceedings. The litigant must file a request in which he or she has to specify the reasons for which he or she is interested in obtaining the evidence. Permission shall be granted by the prosecutor and the investigating judge, or by the president of the court (article 147 of the new Greek Code of Criminal Procedure, on the condition that the litigant proves that he or she has a legal interest in obtaining such evidence).

Moreover, if the litigant is a party to criminal proceedings who has access to documents of the case file, he or she may in, principle, use this evidence in civil proceedings.

Law stated - 12 July 2023

Third-party disclosure

How can information be obtained from third parties not suspected of wrongdoing?

A litigant may file an application with the court for the presentation of a specific document by another litigant or a third

party (article 450 et seq of the CCivPr). The party applying shall expressly and in great detail specify in its application the document, whose disclosure is sought. An order granting or dismissing the application is issued by the competent court.

Law stated - 12 July 2023

CIVIL ASSET RECOVERY – REMEDIES AND RELIEF

Interim relief

What interim relief is available pre-judgment to prevent the dissipation of assets by, and to obtain information from, those suspected of involvement in the fraud?

In urgent circumstances, even before or after the commencement of ordinary proceedings, a claimant having legal interest may apply for an interim injunction or provisional order, seeking freezing of movable or real estate assets, or rights in rem over such assets, as well as claims with respect to them, mandatory injunctions, prohibitory injunctions and interim payments (articles 683 et seq, 691 et seq and 707 et seq of the Greek Code of Civil Procedure (CCivPr)).

The range of such injunctions is wide, thus empowering the judge to shape them in the manner most appropriate for each particular case. Interim injunctions and provisional orders are granted upon application of the claimant to the single-member court of first instance, whereas provisional orders may also be issued ex parte, even without the service of a notice to the opposing litigant. Injunctions that are granted prior to the commencement of ordinary proceedings automatically cease to exist unless an action is filed by the claimant within 30 days or within the time frame set by the court.

Law stated - 12 July 2023

Non-compliance with court orders

How do courts punish failure to comply with court orders?

Failure to comply with court orders may constitute a separate offence depending on the nature of each case or provide a basis for damages.

In particular, according to article 169A of the Greek Criminal Code (GCC), anyone who intentionally fails to comply with a temporary order of a prosecutor or court that was issued on matters related to real estate possession or to family law can be punished by up to three year's imprisonment or a pecuniary penalty.

Moreover, in cases where a public official does not comply with a court order to benefit himself, herself or a third party can be punished by up to two years imprisonment or a pecuniary penalty, under article 256 of the GCC.

Article 397 of the GCC protects against a defendant who tries to conceal, transfer, destroy, etc, his or her property to prevent the enforcement of a judgment. According to this article, a debtor who acts to frustrate, in whole or in part, the satisfaction of his or her debt by damaging, destroying, transferring without value, concealing or appropriating without equivalent and marketable collateral any of his or her property, or who creates false debits or false contracts, shall be punished by imprisonment of up to two years or by pecuniary penalty. In cases of serious financial damage caused by these acts, the debtor shall be punished by imprisonment of at least two years and a pecuniary penalty.

Law stated - 12 July 2023

Obtaining evidence from other jurisdictions

How can information be obtained through courts in other jurisdictions to assist in the civil proceedings?

Judicial cooperation in civil matters is based on multilateral or bilateral translational agreements or EU regulations. Greece is a signatory state to multilateral agreements within the scope of international organisations, such as the United Nations, the Council of Europe and the Hague Convention. In this case, the Ministry of Justice operates as the competent authority that exchanges information in the field of civil law acts as an intermediary authority for providing judicial assistance and facilitates the commencement and continuation of judicial procedures.

Evidence located in foreign jurisdictions shall be obtained through the following instruments:

- Council Regulation (EC) No. 1206/2001 on cooperation between the courts of the member states in the taking of evidence in civil or commercial matters; and
- the Hague Convention of 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters.

Greece is also a party to numerous bilateral agreements with other states regarding civil matters.

Law stated - 12 July 2023

Assisting courts in other jurisdictions

What assistance will the civil court give in connection with civil asset recovery proceedings in other jurisdictions?

Recognition and enforcement of foreign judgments in Greece are done under EU law regulations concerning judgments issued in EU member states, bilateral international conventions between Greece and other countries, ratified by the Greek parliament concerning judgments issued by the courts of those countries, and the provisions of the CCivPr for judgments from all other countries.

EU regulations

Greece, as an EU member, is a party to and bound by the following EU regulations in the field of judicial cooperation in civil matters:

- Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters;
- Regulation (EC) No. 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims (EEO Regulation); and
- Regulation (EC) No. 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European Order for Payment procedure (EOP Regulation).

Judgments and payment orders issued in another EU member state and falling within the scope of application of the above regulations are automatically recognised in Greece and are declared enforceable under the Regulations' provisions. Reasons that would bar enforceability of such judgments in Greece are strictly those mentioned in the

above regulations. Recognition and enforcement of foreign judgments based on the EEO Regulation and the EOP Regulation are also made following the relevant provisions included therein.

Other foreign judgments

The recognition and enforcement of judgments issued in countries with which Greece has a bilateral convention regarding enforcement of judgments or countries with which Greece has not entered into such a bilateral convention, is provided for in articles 323, 904 and 905 of the CCivPr.

Article 904(f) of the CCivPr provides that foreign judgments are enforceable in Greece, provided that they are declared enforceable by the competent single-member court of first instance under article 905 of the CCivPr. A foreign judgment is not declared enforceable in Greece unless the following apply:

- it is a title of enforcement in the country of issuance;
- it does not violate the Greek rules of public order; and
- it meets the requirements of article 323 of the CCivPr as follows:
 - it constitutes *res judicata* in the country of issuance;
 - the defeated litigant was not deprived of its right to a fair trial unless such deprivation was done based on the applicable foreign procedural law that does not discriminate in favour of its nationals; and
 - the foreign judgment is not contradictory to a previous decision of a Greek court that constitutes *res judicata* between the same litigants in the same dispute.

Law stated - 12 July 2023

Causes of action

What are the main causes of action in civil asset recovery cases, and do they include proprietary claims?

In most civil asset recovery cases, the victim may file an action in tort against the defendant with the competent court of first instance, seeking restitution of the loss or damage sustained (article 914 et seq of the Greek Civil Code). There is no fixed claim form and the content of an action in tort is determined by the claimant, provided that it meets the requirements defined in the CCivPr (articles 118 and 216). To this effect, an action in tort should at least contain the names and addresses of the litigants, the court to which it is addressed and the particulars of the claim (namely, factual allegations) that, if proved, would establish the action against the defendant along with the prayer for the relief sought. In the case of monetary claims, the action should also contain a statement of value. For an action in tort to be granted in favour of the claimant, the latter should expressly allege that the defendant acted in a liable manner (namely, under wilful default or negligence) and that the damage sustained is attributable to, and was the result in the normal course of action, of the tortious acts or omissions of the defendant.

Law stated - 12 July 2023

Remedies

What remedies are available in a civil recovery action?

Damages shall be awarded as compensation for the pecuniary harm caused by the defendant. This may include loss of profits.

Moral damages could also be awarded in the form of compensation owing to non-pecuniary harm (psychological) as a

result of the unlawful behaviour.

Law stated - 12 July 2023

Judgment without full trial

Can a victim obtain a judgment without the need for a full trial?

The CCivPr includes specific provisions encouraging the resolution of disputes without the need for a full trial. In particular, as follows:

- article 293 of the CCivPr, titled 'Procedure and results of conciliation', stipulates that litigants may, at any stage of the trial, reach a compromise, provided that the conditions of the law on the merits are fulfilled. The conciliation is done through a declaration before the court or the surrogate judge, or before a notary, and entails ipso facto the end of the trial. The minutes of the conciliation constitute an enforceable title (article 904(2) of the CCivPr); and
- according to article 214A of the CCivPr, after the occurrence of pendency and until a final judgment is issued, litigants may attempt to reconcile through negotiation efforts regardless of the standing stage of the trial. The minutes of the agreement should be recorded in writing, signed by the parties and ratified by the judge or the presiding judge before whom the case is pending. The minutes of the conciliation constitute an enforceable title.

Moreover, in principle, all civil and commercial law disputes can be submitted to mediation as long as the parties have the authority to dispose of the subject of the dispute, namely, where the law does not require a court judgment for its resolution. The mediation procedure is regulated by Law No. 4640/2019.

Law stated - 12 July 2023

Post-judgment relief

What post-judgment relief is available to successful claimants?

The claimant may apply for an interim injunction or provisional order before the judgment becomes final.

Law stated - 12 July 2023

Enforcement

What methods of enforcement are available?

Final judgments or first-instance judgments that have been issued as provisionally enforceable may be immediately enforced. A certified copy of the enforcement order, which is provided by the presiding judge of the court that issued the relevant judgment, is required to initiate the enforcement procedure (articles 904 and 918 of the CCivPr). Once the order is served, enforcement actions may take place after three working days have passed (article 926 of the CCivPr).

Enforcement actions include garnishment (confiscation) of the defendant's assets and real estate property or auction of those assets and property, or both.

Law stated - 12 July 2023

Funding and costs

What funding arrangements are available to parties contemplating or involved in litigation and do the courts have any powers to manage the overall cost of that litigation?

Legal fees and expenses are usually paid by the client. The latter includes a court duty of 0.8 per cent of the claim value. Also, courts order the unsuccessful litigant to pay the costs of the proceedings, which, as a rule, are of nominal value and cover a small part of the actual costs incurred by the winning party.

Parties with limited financial resources can avoid legal costs based on the provisions of articles 194 to 204 of the CCivPr.

A person can be insured against future litigation expenses, based on his or her contract with the insurer.

Law stated - 12 July 2023

CRIMINAL ASSET RECOVERY – LEGAL FRAMEWORK

Interim measures

Describe the legal framework in relation to interim measures in your jurisdiction.

Asset recovery is mainly regulated by articles 248, paragraphs 6, 261 and 262 of the Greek Code of Criminal Procedure (GCCP), and Law No. 4557/2018, which contains provisions for freezing and confiscation of assets of illicit origin. It should be highlighted that, according to article 262, paragraph 4 of the GCCP and article 42, paragraph 9 of Law No. 4557/2018, assets can remain frozen, without a decision issued by the first instance courts, for a maximum period of five years.

Law stated - 12 July 2023

Proceeds of serious crime

Is an investigation to identify, trace and freeze proceeds automatically initiated when certain serious crimes are detected? If not, what triggers an investigation?

A criminal investigation is initiated by the prosecutor following a criminal complaint (by an individual or entity, usually the victim of a white-collar offence) against certain persons or information submitted to the Public Prosecutor's Office by another authority, or even information that has come to the attention of the Public Prosecutor's Office through the press or other sources. The prosecutor is also responsible for initiating and supervising investigations that may be performed by other agencies (eg, the Financial and Economic Crime Unit (SDOE)).

Moreover, article 248, paragraph 6, of the GCCP stipulates that when the main investigation is conducted and there are indications that the defendant or a third person has gained a significant economic benefit from a serious offence, the investigating judge automatically initiates an investigation into the financial status of the defendant.

All other agencies have powers of investigation but need to follow the general rules of the GCCP. For example, the SDOE has the right to perform searches and seizures of documents but needs the presence or the authorisation of a prosecutor, magistrate or judge to search private premises or seize documents and data containing privileged information. However, agencies such as the SDOE and the Hellenic Financial Intelligence Unit (FIU) do not need the authorisation to obtain tax records and bank account information when conducting an investigation. A special judicial authorisation is always needed to obtain the content of confidential correspondence.

Confiscation – legal framework

Describe the legal framework in relation to confiscation of the proceeds of crime, including how the benefit figure is calculated.

According to article 261 of the GCCP, during the main investigation the investigating judge, with the consent of the public prosecutor, may order the freezing of any accounts, securities or financial products and safe deposit boxes kept at a credit or financial institution, including those owned jointly with any other person (third person). Further, article 261 of the GCCP provides that freezing may be imposed on assets belonging solely to a third person, if these assets were acquired by him or her without any exchange of similar value and to hinder future confiscation. It should be noted that assets that are necessary for the living expenses, defence costs and the management of the frozen assets are excluded from the freezing order. The above-mentioned measures may also be imposed in respect of real estate property, ships and aircraft.

Law No. 4557/2018 against money laundering also provides for the freezing of assets during the preliminary inquiry, which shall be ordered by the judicial council. According to this law, freezing may take place even at the earliest stages of information gathering by the FIU, when investigating potential money laundering activities. In this case, the head of the FIU may order the freezing of assets.

The order of the investigating judge and the judgment of the judicial council has the power of a seizure report, and thus produces the same effects as seizure, and shall be issued without prior summoning of the defendant or the third person. It is not necessary for the validity of the freezing order or judgment to mention any specific account, security, financial product or safe deposit box.

The interested party (the defendant or the third person) may appeal against the above orders to the competent judicial council within 20 days after the freezing order is served on him or her.

The value of the benefit, which was unlawfully obtained, is calculated by the authority that orders the freezing of assets. In principle, such benefit corresponds to the proceeds of the alleged crime.

These measures may be imposed provided there are well-founded suspicions that the above assets derived from the commission of a serious offence (article 261 of the GCCP) or of money laundering or a predicate offence (Law No. 4557/2018), or are subject to confiscation according to article 40 of Law No. 4557/2018. Subject to confiscation are assets derived from a predicate or money laundering offence, or that were acquired directly or indirectly out of the proceeds of such an offence, or that constitute the means that were used or were going to be used for committing such offence.

In the case of a guilty verdict, all frozen assets derived directly or indirectly from the commission of an offence or acquired directly or indirectly out of the proceeds of such offences or the means that were used or were going to be used for committing such offences, shall be confiscated. If there is no legal reason for returning them to the victim of the crime or their owner according to article 373, paragraphs 3 and 4 of the GCCP, they shall be confiscated as a result of the court's sentence. Confiscation shall be imposed even if the assets or means belong to a third person, provided that such person was aware that these assets are likely to originate from an offence and that the reason for their transfer to this third person was to hinder future confiscation. Where the assets or proceeds no longer exist, have not been found or cannot be seized, assets of equal value (as at the time of the court sentence) shall be seized and confiscated. Their value shall be determined by the court. The court may also impose a pecuniary penalty up to the value of the said assets or proceeds if it rules that no additional assets can be confiscated or the value of the existing assets falls short. If these assets have been 'mixed' with lawfully obtained assets, confiscation shall extend only to the value of the assets that derived from the offence. Confiscation of assets is not enforced when it is deemed as a disproportionate measure (namely, it is highly likely that it will cause serious and irreparable damage to the defendant's

livelihood or that of his or her family).

Law stated - 12 July 2023

Confiscation procedure

Describe how confiscation works in practice.

The freezing order or judgment is served on the defendant, on the third person and the managing officer of the credit or financial institution. When the freezing order or judgment is served to the credit or financial institution, the safe deposit box cannot be opened and any withdrawal of money from an account or any sale of securities or financial products is null and void towards the state. Any officer or employee of the credit or financial institution who intentionally violates the above restrictions shall be punished with imprisonment of up to two years and a pecuniary penalty (article 42(2) of Law No. 4557/2018). In practice, assets remain seized or frozen until the end of the trial stage (namely, when the court's decision becomes final). However, it should be highlighted that assets may remain frozen for a maximum period of five years until a decision of the first instance court is issued. In the case of a guilty verdict, all assets that have been seized or frozen are confiscated by the state as described above. If the defendant is found not guilty, previously frozen assets become available to the defendant or third parties.

Law stated - 12 July 2023

Agencies

What agencies are responsible for tracing and confiscating the proceeds of crime in your jurisdiction?

Agencies such as the Financial and Economic Crime Unit and the FIU, along with the judicial authorities (the investigating judge and the prosecutor during the main investigation, or the judicial council during the preliminary inquiry), are responsible for tracing and freezing assets that are allegedly the proceeds of crime. Confiscation of such assets can solely be ordered by the court that tries the case if the defendant is found guilty of committing such crimes.

Law stated - 12 July 2023

CRIMINAL ASSET RECOVERY – CONFISCATION

Secondary proceeds

Is confiscation of secondary proceeds possible?

Yes. Confiscation extends to all assets derived from a predicate or money laundering offence, or acquired directly or indirectly out of the proceeds of such offence, or that constitute the means that were used or were going to be used for committing the offence.

Law stated - 12 July 2023

Third-party ownership

Is it possible to confiscate property acquired by a third party or close relatives?

Yes. Confiscation shall be imposed even if the assets or means belong to a third person, provided that such person was aware of the predicate offence or of the offences referred to in article 2 of Law No. 4557/2018 (money laundering

offences) at the time of their acquisition (articles 42 and 40 of Law No. 4557/2018 and article 68 of the Greek Criminal Code (GCC)).

Law stated - 12 July 2023

Expenses

Can the costs of tracing and confiscating assets be recovered by a relevant state agency?

No.

Law stated - 12 July 2023

Value-based confiscation

Is value-based confiscation allowed? If yes, how is the value assessment made?

Confiscation of assets unrelated to the crime is allowed (namely, if the assets that originated from the crime do not exist, are mixed with legitimate assets, or are untraceable or cannot be confiscated – article 40(1-2) of Law No. 4557/2018 and article 68(3) of the GCC). In principle, the value is calculated by the court that reached a guilty verdict and corresponds to the proceeds of the alleged crime.

Law stated - 12 July 2023

Burden of proof

On whom is the burden of proof in a procedure to confiscate the proceeds of crime? Can the burden be reversed?

In criminal proceedings, the burden of proof lies primarily with the authorities that are responsible for ordering the confiscation or freezing of the proceeds of crime, namely, the head of the Hellenic Financial Intelligence Unit, the investigating judge or the judicial council. Although the defendant is not legally required to prove his or her innocence and the legality of the frozen or confiscated assets, in practice, he or she is expected to provide the authorities with all the necessary evidence concerning the legitimacy of their origin.

Law stated - 12 July 2023

Using confiscated property to settle claims

May confiscated property be used in satisfaction of civil claims for damages or compensation from a claim arising from the conviction?

Yes. According to the provisions found in the new Greek Code of Criminal Procedure (GCCP) (eg, articles 304; 311, paragraph 3; and 373, paragraph 3) and Law No. 4557/2018 (article 40, paragraph 5), frozen assets shall be used to satisfy the pecuniary damage, which the victim of the crime suffered.

Law stated - 12 July 2023

Confiscation of profits

Is it possible to recover the financial advantage or profit obtained through the commission of criminal offences?

No. Only the proceeds of crime are subject to confiscation.

Law stated - 12 July 2023

Non-conviction based forfeiture

Can the proceeds of crime be confiscated without a conviction? Describe how the system works and any legal challenges to in rem confiscation.

Yes. Proceeds of crime may be subject to confiscation even when criminal proceedings have not been initiated or have been terminated because of the death, unavailability, etc, of the offender, or if the prosecution was terminated or declared inadmissible on other grounds. In these cases, confiscation shall be ordered by the judicial council or by the court (article 40(3) of Law No. 4557/2018). These decisions are subject to appeal on the merits and points of law according to articles 495 and 504(3) of the GCCP.

Owing to the punitive nature of confiscation in criminal proceedings, non-conviction-based confiscation has been said to be in breach of articles 2(1), 7(1) and 96(1) of the Greek Constitution, which establishes the principles of nulla poena sine processu and nullum crimen, nulla poena sine culpa.

Law stated - 12 July 2023

Management of assets

After the seizure of the assets, how are they managed, and by whom? How does the managing authority deal with the hidden cost of management of the assets? Can the assets be utilised by the managing authority or a government agency as their own?

According to article 5 of Law No. 4478/2017, which transposed article 10 of Directive 2014/42/EU on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union, following a decision of the Minister of Justice, Transparency and Human Rights, a new bureau shall be established that will be responsible for managing confiscated or frozen assets. In particular, the economic value of the frozen property shall be preserved by taking all necessary measures (such as liquidation of stocks), and confiscated property shall be used for public interest or social purposes.

Law stated - 12 July 2023

CRIMINAL ASSET RECOVERY – CROSS-BORDER ISSUES

Making requests for foreign legal assistance

Describe your jurisdiction's legal framework and procedure to request international legal assistance concerning provisional measures in relation to the recovery of assets.

Law No. 4478/2017 transposed the relevant provisions of Framework Decisions 2003/577/JHA, 2005/212/JHA and 2006/783/JHA and of Directive 2014/42/EU. Greece now recognises and executes freezing and confiscation orders

provided that the acts that give rise to them belong to certain categories of offences and are punishable in the issuing state by a custodial sentence of at least three years. For other offences, the principle of dual criminality applies. Moreover, since 19 December 2020, Regulation (EU) 2018/1805 of the European Parliament and of the European Council of 14 November 2018 has applied in all EU member states regarding the mutual recognition of freezing orders and confiscation orders.

Law stated - 12 July 2023

Complying with requests for foreign legal assistance

Describe your jurisdiction's legal framework and procedure to meet foreign requests for legal assistance concerning provisional measures in relation to the recovery of assets.

Greek authorities offer broad assistance to requests for mutual legal assistance concerning provisional measures in relation to the recovery of assets. Most enforcement agencies and the Hellenic Financial Intelligence Unit, apart from being points of contact and competent to handle such requests by virtue of international instruments, enter into administrative agreements of cooperation, which enable them to exchange information faster and more efficiently. In principle, requests for freezing and seizing of assets are executed without significant delay if they meet the standards and criteria set out in the relevant agreements for mutual assistance. Moreover, since 19 December 2020, Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders applies to all EU member states.

Law stated - 12 July 2023

Treaties

To which international conventions with provisions on asset recovery is your state a signatory?

Greece is a signatory to the following conventions (non-exhaustive list):

- the European Convention on Mutual Assistance in Criminal Matters (1959);
- the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990);
- the Council of Europe Convention on Corruption (1999);
- the UN Convention against Transnational Organized Crime (2000);
- the UN Convention against Corruption (2003); and
- the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (2005).

Law stated - 12 July 2023

CRIMINAL ASSET RECOVERY – PRIVATE PROSECUTIONS

Private prosecutions

Can criminal asset recovery powers be used by private prosecutors?

Private prosecution does not exist in the Greek legal system.

Law stated - 12 July 2023

UPDATE AND TRENDS

Emerging trends

Are there any emerging trends or hot topics in civil and criminal asset recovery in your jurisdiction?


Anti-money laundering legislation has been the key legislation for criminal asset recovery and has been extensively used by the competent authorities to detect and prosecute corruption practices, large-scale fraud and tax evasion since 1995. This legal framework has been reinforced by the Greek Code of Criminal Procedure (GCCP), which entered into force on 1 July 2019. It also provides for asset recovery measures in all types of serious criminal offences.

The current legislative framework in asset recovery is designed to protect the interests of the victims of economic crimes more efficiently; it explicitly provides that frozen assets are to be used to compensate the victims of the crime. The satisfaction of the victim's claims through the disposal of frozen assets is also a prerequisite for the successful conclusion of alternate forms of criminal adjudication, which were also introduced by the new GCCP in 2019. According to the GCCP and recently amended Law No. 4557/2018, assets shall remain frozen for a maximum period of five years, without a decision of a first instance court (namely, the case must be tried by a first instance court within five years from the issuance of the freezing order, otherwise the freezing order shall be lifted).

The above-mentioned new provisions have the potential to shorten the length of litigation and even avoid civil litigation altogether, in cases where the assets have been allocated and frozen by the competent criminal authorities, thus making asset recovery in Greece more effective.

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Jurisdictions

	Australia	Clayton Utz
	Cyprus	AG Erotocritou LLC
	Greece	ANAGNOSTOPOULOS
	Italy	Studio Legale Pisano
	Monaco	Donald Manasse Law Offices
	Portugal	Carlos Pinto de Abreu e Associados
	Singapore	Eugene Thuraisingam LLP
	Switzerland	LALIVE
	United Arab Emirates	Clyde & Co LLP
	United Kingdom	Stephenson Harwood LLP
	USA	Baker & Hostetler LLP