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1 Regulatory

1.1 Which government bodies/agencies regulate insurance (and reinsurance) companies?

The Greek insurance market comprises 39 non-life insurers, 12 life insurers and 11 enterprises that still offer both life and non-life insurances, as they have received licence to operate before the introduction of the principle on the separation of life and non-life services. There are 41 insurance companies (both Greek insurance companies and Greek subsidiaries of foreign insurers), 18 licensed branch offices of foreign insurers and three mutual insurance cooperatives. The total revenue from insurance premiums in 2015 was €3.7 billion (6.1% less in comparison to 2014). About 48.5% of revenue derived from life insurances and 51.5% from non-life insurances. Profits before tax reached the level of €413 million in 2015 (€377 million in 2014). The total volume of insurance compensation paid in 2015 was €1.6 billion under life policies, and €764 million under non-life policies. The average premium *per capita* in 2015 was €343 (€166 for life policies and €177 for non-life policies). The life insurance market is rather concentrated, as the five leading firms possess a collective market share of 75.6%. In non-life insurances, the collective market share of the five leading firms is 39.1%.

On 1st January 2016, Greece implemented the Solvency Directive 2009/138 EU (Greek law 4364/2016), which greatly amended the law on licensing and regulation of insurance enterprises.

Insurance is a regulated business and requires an express prior authorisation (licence). The regulator is the Bank of Greece (BoG). The BoG supervises both credit/financial institutions, as well as insurance enterprises. However, supervision is carried out through different departments.

The main powers of the BoG with respect to insurance companies are as follows:

- to issue and revoke operating licences;
- to supervise macro and micro-prudential regulation, as well as financial conduct;
- to issue secondary regulation;
- to carry on investigations, to adjudicate violations of regulation and to impose fines;
- to license the operation in Greece of branch offices of insurers from third (non-EU) countries, and to supervise both prudential regulation and financial conduct of such branch offices; and
- to certify insurance intermediaries and to supervise their financial conduct.

The BoG has no power to deal with anti-trust issues, consumer protection, or unfairness of standard policy terms. Consumer protection is enforced through the courts and Consumer Protection Department of the Ministry of Economic Development.

Other bodies that have an impact on the financial conduct of insurers include the following:

- The Ombudsman Service, which deals with complaints relating to consumer insurances. It is inefficient, mainly because its decisions are not enforceable.
- The Consumer Protection Department of the Ministry of Economic Development. It has been heavily engaged with the issue of fairness of general terms and conditions of insurance policies. It can also examine complaints relating to consumer insurance policies and impose fines.
- Consumer Associations. There is one major and very active consumer association which has greatly influenced the local court jurisprudence on the issue of fairness of general terms and conditions, particularly in life policies.

These bodies adopt a restrictive approach on the concept of "consumer", which does not include micro and small businesses, or professionals like accountants, doctors, architects, etc. However, the courts have adopted a broader approach on many occasions.

Reinsurers are regulated by the BoG, only if they have their registered office in Greece. Reinsurers with a licensed office in any EU Member State are able to undertake reinsurance risks in Greece, even if they do not have a local branch office.

1.2 What are the requirements/procedures for setting up a new insurance (or reinsurance) company?

An express prior licence has to be obtained by the BoG. The basic prerequisites for authorisation are:

- the licensed entity must be either a *société anonyme*, or a mutual insurance cooperative, or a *societas europaea*; its corporate purpose must be deduced to (re)insurance only and should not include other activities;
- the licence is granted for specific insurance risks, or classes of risks only;
- a three-year business plan is required;
- sufficient assets satisfying capital requirements, which are proportionate to the volume of the risks to be undertaken;
- disclosure as to the major shareholders and executive officers; and
- sufficient manpower and administrative resources (including information technology systems, risk management and internal control) to secure prudent management.

In connection to primary insurance, the principle of strict separation of life and non-life risks is applied. So, a legal entity is granted a licence either for life risks only, or for non-life risks only. Reinsurers may obtain a licence to reinsure both life and non-life risks.

A licence granted for primary insurance of certain risks also covers reinsurance business in connection to those risks.

The licence is granted or denied within a period of six months as from the submission of a full application.

Greece applies the single European licence system; so, the licence granted in Greece by the BoG is the basis for operating branch offices in other EU countries under the freedom of establishment regime, or for providing services in other EU countries under the freedom of services regime.

1.3 Are foreign insurers able to write business directly or must they write reinsurance of a domestic insurer?

A. EU/EEA insurers

Insurers with a registered office in other EU Member States may benefit from the freedom of establishment, or the freedom of services legal regime. Greece applies the "single (home) passport" system.

A.1. Freedom of establishment

Under the freedom of establishment regime, an insurer with a registered office in an EU Member State may establish a branch office in Greece by filing a notification to its home country regulator accompanied by:

- a business plan for the branch office;
- appointment of a local legal representative and attorney to receive service of process;
- identification of a registered address in Greece;
- certification as to the capital requirements;
- if the branch office writes motor vehicles liability risks, the following are also required: (i) participation to the local Motor Insurers' Bureau and the local Motor Insurers' Auxiliary Fund; (ii) participation to the local system for expedite out of court settlement of claims; and (iii) compliance with national law on the terms of motor vehicles liability insurance;
- if the branch office offers motor vehicle assistance services, compliance with the respective national legislation on motor vehicles assistance (Greek Law 3651/2008) is required; and
- if the branch office writes life risks, participation to a special fund organised under national law to provide security in favour of policyholders in case of insolvency is required.

The national regulatory authority of the home country forwards the above-mentioned application and file to the BoG (the host country regulator). The branch office may commence its operations after the lapse of two months as from the date of receipt by the BoG of the file forwarded. An express licence by the BoG is not required.

Under the home passport regime, prudential regulation and financial conduct are supervised by the home country's regulator. If the national (Greek) regulator has any concerns regarding the financial conduct of a foreign insurer operating in Greece, they are likely to contact the regulator of the respective foreign (home) country. The national (Greek) regulator takes action on its own only in exceptional or urgent cases.

A.2. Freedom of services

Under a similar but rather relaxed procedure, an EU/EEA insurer may write business in Greece without operating a local branch office. Submission of a business plan is not required. Appointment of a local representative is required, only if motor vehicles liability risks are also covered. Additional requirements for motor vehicles liability insurance include registration with the local Motor Insurers' Bureau, participation to the local system for expedite out of court settlement of claims and compliance with local law on motor insurance policies. If life insurances are offered, participation to the local fund, providing security in case of insolvency, is required.

B. Third countries' insurers

Foreign insurers with a registered office in a third (non EU/EEA Member State) country may undertake insurance business in Greece, only if they establish a locally licensed branch office. The process and requirements for establishing such a local branch office is very similar to that for obtaining a licence for an insurance company.

1.4 Are there any legal rules that restrict the parties' freedom of contract by implying extraneous terms into (all or some) contracts of insurance?

The Greek private insurance contract law makes a distinction between "large risks" and "other risks". In connection to "large risks", freedom of contract prevails, but in connection to "other risks", the law is mandatory.

In "large risks", freedom of contract is restricted only by the Greek public policy (which is mainly deduced to the indemnity principle, so that a non-life policy should provide compensation only for a loss suffered and should not render the insured richer). Freedom of contract in "large risks" also includes the freedom to choose the law applicable to the policy, as per Art. 7(1) of Regulation 593/2008 EC. "Large risks" are defined in sec. 13(27) of Dir. 2009/138 EC and mainly include: goods in transit risks; marine; aviation; and credit and suretyship risks. "Large risks" may also include some additional risks, such as fire, damage to property and general liability, provided that the policyholder is a large company, as per the criteria set by sec. 13(27)(c) of Dir. 2009/138. It is noteworthy though that sec. 33(1) of Greek Law 2496/1997 provides a different, narrower definition of "large risks", including only goods in transit, marine, aviation insurance and credit and suretyship risks.

In connection to risks other than "large risks", the Greek law is mandatory and cannot be derogated from contract. Hence, the parties cannot validly reduce the level of protection granted to the policyholder and the insured by the provisions of Greek private insurance contract law (Law 2496/1997). Moreover, the parties are not free to choose the law applicable to the policy and must abide to the criteria set by Art. 7(3) of Regulation 593/2008 EC.

Freedom of contract in consumer insurances is also restricted by consumer protection legislation. This mainly relates to the issue of fairness of general terms and conditions. General terms are not individually negotiated. Therefore, they are deemed to be unfair and, hence, void, if they cause a significant imbalance in the parties' rights and obligations to the detriment of the policyholder. It is notable that Greek courts usually adopt a broad approach as to the concept of "consumer"; so, micro and small businesses, as well as professionals (i.e. accountants, surveyors, doctors, barristers, etc.) have been found to qualify as consumers by many Greek court judgments.

Freedom of contract is also restricted in compulsory insurance when the legislation describes the terms on which such insurance should be provided; this is basically the case of motor vehicle liability insurance.

Insurance policies are usually interpreted according to the "*contra proferentem*" principle, which greatly favours the insured.

With respect to risks other than "large risks" (including consumer insurances), the process of contract conclusion is expressly dealt with in the Greek insurance contract law, i.e. Art. 2 of Law

2496/1997. The insurer is obliged to provide certain information and guidance to the insured before the conclusion of the policy. If they fail to do so, the insured is granted the right to withdraw from the policy (by way of rescission) within 14 days as from the delivery of the policy to the insured. In addition, the insurer is obliged to issue a policy on terms corresponding to the specification of the proposal form and the type of insurance described and sought by the insured in the proposal form. If there is any deviation of the policy from the proposal form, the insurer is obliged to notify the insured and also to advise them that they have a right to withdraw from the policy within one month, as from the day of delivery of the policy. If the insurer fails to make this notification about deviations from the proposal form and provide the above advice regarding the right to withdraw from the policy, any such deviation is inoperative and the policy is deemed to correspond to the proposal form.

See also below in question 2.4 in connection to "warranties" and "basis of contract clauses".

1.5 Are companies permitted to indemnify directors and officers under local company law?

Indemnification is not allowed in connection to liability incurred towards the company itself, nor in connection to malicious and intentional losses to third parties. However, a company can insure itself for losses due to directors' mismanagement and can indemnify directors for losses caused to third parties (D&O policies).

D&O policies cannot cover intentional (malicious) losses. In the case of multiple co-insured directors, the policy is inoperative with respect to the director who intentionally caused the loss, but it remains valid and unaffected in connection to the other innocent co-insured directors.

Professional liability and D&O policies have been one of the most rapidly developing markets during the past decades. Due to the financial crisis, many issues relating to D&O policies for banks have arisen after 2008. The Greek courts have also developed a highly protective jurisprudence in favour of the insured, particularly in connection to "claims made" policies, which sometimes seem to involve a level of unfairness to insureds because a continuous cover may not always be maintained.

1.6 Are there any forms of compulsory insurance?

The most common form of compulsory insurance is motor vehicles third party liability insurance.

Other forms of compulsory liability insurance relate to:

- air, railway and road carriers;
- organisers and retailers of package travel, package holidays and package tours;
- public accountants;
- insurance brokers;
- ship owners and ship operators in connection to various marine risks;
- certain investment brokers and providers of financial and investment services; and
- constructors who are assigned works by the State.

Lessees under financial leasing agreements are obliged to obtain compulsory property insurance in connection to the leased assets.

Compulsory insurance is always governed by the local law.

The reason for making insurance compulsory is to protect the third party who has suffered the loss. This is a decisive factor in interpreting the terms of such policies.

2 (Re)insurance Claims

2.1 In general terms, is the substantive law relating to insurance more favourable to insurers or insureds?

In connection to "large risks", where freedom of contract prevails and the law can be greatly favourable to insurers.

In connection to risks other than "large risks" and consumer insurances, substantive law is more balanced, but still it is the insured who bears the burden of proof and has to overcome many difficulties relating to judicial proceedings. So, overall, the law is still greatly favourable to insurers.

2.2 Can a third party bring a direct action against an insurer?

From the point of view of substantive law, a direct action exists only in the case of compulsory motor vehicles third party liability insurance. In all other types of liability insurance, if the insured becomes bankrupt, the claim for insurance compensation becomes part of the bankrupt property and is allocated to all creditors proportionately to the volume of their claims. This means that the third party, who has suffered the loss, is left rather unprotected.

However, under Greek civil procedure law, a creditor may file a legal action against the debtors of their own debtor if the latter delays or omits to take judicial action against them without appropriate justification. This has been recently employed in practice in connection to group policies arranged by banks to cover the indebtedness of their client debtors. Banks were mentioned to be the beneficiaries under such policies but were reluctant to raise their claims against insurers for various reasons (in most cases insurers were subsidiaries of the banks). So, bank debtors successfully took the initiative to establish legal proceedings against insurers.

2.3 Can an insured bring a direct action against a reinsurer?

In terms of substantive law, there is no direct action of the insured against reinsurers. The primary insurer has the power to make the reinsurer party to judicial proceedings, but the insured cannot do so.

However, as mentioned above, from the point of view of civil procedure, a creditor can always file a legal action against the debtors of their own debtor if the latter unjustifiably delays or omits to do so. However, this has never been actually employed in practice against reinsurers and it seems that such an action would probably fail due to the fact that there will usually be reasonable justification for an insurer to decide not to establish legal proceedings against reinsurers.

2.4 What remedies does an insurer have in cases of either misrepresentation or non-disclosure by the insured?

A distinction between "large risks" and other risks is required. In connection to "large risks", freedom of contract prevails and the parties may arrange remedies contractually. With respect to other risks and consumer insurances, Greek insurance law has abandoned the strict duty of disclosure by way of mandatory provisions and has adopted proportionate remedies since 1997. Remedies are proportionate to the type of fault on the part of the policyholder (i.e. whether misrepresentation or non-disclosure is innocent, negligent or fraudulent).

Proportionate remedies are arranged as follows:

- In case of innocent misrepresentation or non-disclosure, the insurer is entitled to terminate the policy (subject to a 15-day prior notice), or request its amendment. Claims already paid in the past cannot be recovered.
- In case of negligent misrepresentation or non-disclosure, the insurer has the same rights, as in the case of innocent misrepresentation. However, if the risk occurs before termination comes into force, or before the policy is amended, the insurer is entitled to pay compensation reduced on a proportional basis, i.e. according to the volume of premium that would have been charged otherwise.
- In case of fraudulent misrepresentation or non-disclosure, the insurer is entitled to terminate the policy with immediate effect. Moreover, the insurer is relieved from liability, even if the loss has occurred before termination; so, an insurer, who was able to detect the fraud only after the risk has occurred, is not prejudiced and is also relieved from liability.
- By way of exception to the aforementioned, life policies and accident and health policies can be terminated only in the case of fraudulent misrepresentation or non-disclosure.
- The right of termination is waived if it is not exercised within one month, as from the date when the insurer became aware of the misrepresentation or non-disclosure. If the risk occurs within the running one-month period, the insurer is relieved from the obligation to pay compensation.
- The insurer is entitled to insurance premiums until termination becomes effective.
- No remedies arise, if the insurer had actual, accurate and correct knowledge of the facts that were misrepresented or non-disclosed; however, ostensible knowledge does not suffice.
- Remedies for misrepresentation and non-disclosure arise irrespectively of causation; that is, it is immaterial whether misrepresentation or non-disclosure actually contributed to the occurrence of the loss.
- "Warranties" are fully valid and enforceable only in connection to policies relating to "large risks". In connection to all other risks, "warranties" are in principle valid, but they are enforceable only if: (a) they are proportionate (that is, the remedy provided for, i.e. exemption of the insurer from liability, is proportionate to the violation of the clause, meaning that the issue of materiality of the warranty is also examined); (b) causation can be established between the violation of the "warranty" and the occurrence of the loss; and, further, (c) violation of the "warranty" is due to negligence or fraud on the part of the insured. In case of an unenforceable "warranty", insurers usually argue that they are still operative as contractual exemptions from cover, but the issue is highly controversial and unsettled in court jurisprudence.
- "Basis of contract clauses" are treated as warranties in both "large risks" and other risks.

The involvement of intermediaries raises great difficulties. In particular, it is highly controversial whether the fault and/or the knowledge of intermediaries is attributed to the insured or the insurer. In principle, insurance brokers are deemed to be agents of the insured and their fault and/or knowledge is attributed to the insured; while insurance agents are deemed to be agents of the insurer. This approach is greatly supported by specific provisions of the Greek law, holding that brokers act on behalf of the insured, while agents act on behalf of the insurer. However, the correct approach is that agency is not a matter of law, but a matter of fact; so, one has to establish in each particular case whether the broker or agent represents the insured or the insurer, that is, whether there is actual, ostensible or apparent authority. Tied agents are treated as agents of the insurer.

2.5 Is there a positive duty on an insured to disclose to insurers all matters material to a risk, irrespective of whether the insurer has specifically asked about them?

With respect to "large risks", freedom of contract prevails and the parties may contractually adopt a positive and strict duty of disclosure (i.e. an utmost good faith duty).

With respect to risks other than "large risks" and consumer insurances, Greek law has practically abandoned the strict duty of disclosure since 1997. In theory, a positive duty of disclosure still remains; however, if the insurer has used a questionnaire, then:

- anything not covered in the questionnaire is deemed to be immaterial;
- the insurer cannot invoke that certain questions were not answered;
- the insurer cannot invoke the insufficiency of the answers if the respective questions were not adequately specific and precise, unless there is fraud on the part of the policyholder; and
- if an answer is unclear, the insurer has a duty to revert and investigate further and cannot at a later stage invoke such insufficiency, unless there is fraud on the part of the policyholder.

2.6 Is there an automatic right of subrogation upon payment of an indemnity by the insurer or does an insurer need a separate clause entitling subrogation?

Subrogation is automatic, i.e. by operation of law, even in the absence of an express clause to this effect, and occurs at the time when compensation is paid. Subrogation extends to all substantive and procedural rights of the insured up to the volume of insurance compensation actually paid.

3 Litigation – Overview

3.1 Which courts are appropriate for commercial insurance disputes? Does this depend on the value of the dispute? Is there any right to a hearing before a jury?

There are no jury courts in Greece. All courts consist of judges. In Greece, judges are appointed after their graduation from the National School of Judges, which they enter after examinations, usually shortly after their graduation from a law school. Unlike other jurisdictions, senior barristers do not become judges. Judges are promoted from the first instance courts to the Appeal Courts and finally to the Supreme – Cassation Court. During their career they are usually transferred to serve with different courts around the country; they do not serve their entire career with the same court, or in the same city. Moreover, Greek judges serve before both civil/commercial and criminal departments of their court. So, during their career they deal both with civil, commercial and criminal cases.

Claims of insurers for an insurance premium up to €20,000 are dealt with by magistrate courts, consisting of a single judge. If the claims exceed €20,000, they are dealt with by first instance courts, consisting of a single judge. The basic difference between magistrate courts and first instance courts is that magistrate judges serve their entire career with magistrate courts and are not promoted to higher courts. Magistrate courts deal with minor disputes.

Claims for insurance compensation relating to motor vehicle liability insurance are dealt with by the first instance courts, consisting of a single judge, irrespective of the volume of the claim involved.

All other claims for insurance compensation are allocated between single-member and multi-member first instance courts. If they relate to claims up to €250,000, they are dealt with by single-member courts; while, if they exceed this threshold, they are addressed to multi-member courts. Multi-member courts consist of three judges. One of those judges is more senior and serves as president. One of the other two judges serves as a reporting judge. There is only one single judgment. So, each of the three judges does not submit a separate judgment or opinion. It is possible for a judge to dissent in a judgment, although this is rather exceptional. In such a case, the dissenting opinion is also included in the judgment.

In each first instance court there is a department for commercial cases, in which judges serve for a period of about two years. In the first instance court of Athens, judges, serving with this department and dealing with insurance claims do have a certain level of expertise in insurance law.

3.2 How long does a commercial case commonly take to bring to court once it has been initiated?

Greece has recently implemented new law on civil procedure to expedite the judicial process. Legal actions (writs) under Greek law need to be long and detailed, as they need to provide a fully substantiated and detailed statement of facts. After the filing of the legal action, the parties are granted a 100-day (130-day for non-residents) period to submit to the court written arguments and evidence. An oral hearing usually does not take place. A first instance court judgment is usually issued after about eight to 12 months, as from the filing of the legal action; whereas a judgment from the Appeal Court is usually issued after two years as from the filing of the appeal.

4 Litigation – Procedure

4.1 What powers do the courts have to order the disclosure/discovery and inspection of documents in respect of (a) parties to the action, and (b) non-parties to the action?

Under the Greek law of civil procedure, the progress of the judicial proceedings and the submission of evidence depends on the initiative of the litigating parties and not on the court. So, a duty of disclosure does not exist, as it appears in the US and the UK. There is only a general duty of honesty, but in reality, the parties are allowed to decide which sort of documents they wish to submit to the court.

However, a party may apply (either before the filing of a legal action, or during court proceedings) for a court order against either: (a) its counter-party to a contract; (b) its counter-litigant; (c) a third party; or (d) a public authority, to produce certain documents before the court, or to provide copies, provided that: (a) the applicant can adequately describe, identify and specify such documents; and (b) such documents are in the possession of the party against whom the application is addressed to, and, further, provided: (i) either that such documents have been issued for the applicant's own benefit; or (ii) that such documents are not "privileged" (i.e. as in the case of communications with lawyers), or covered by a professional duty of confidentiality (i.e. as in the case of documents produced by doctors and relevant information retained by them).

Internal reports of insurers, which are not specifically addressed to in the policy, are deemed to have been produced for the insurer's own benefit and are not subject to disclosure. Survey reports, which are produced according to policy terms, are deemed to be prepared for the benefit of both the insurer and the insured and are subject to disclosure.

4.2 Can a party withhold from disclosure documents (a) relating to advice given by lawyers, or (b) prepared in contemplation of litigation, or (c) produced in the course of settlement negotiations/attempts?

Communications with lawyers and other consultants (i.e. surveyors, loss adjusters, etc.) which have been produced for the purposes of the litigation process enjoy legal privilege, even if not specifically marked as "legally privileged", unless it can be established that they have been produced according to the terms of the policy.

Communications among the parties in the course of settlement negotiations do not enjoy legal privilege, but the parties may validly agree that such communication will be confidential and will not be used as evidence before the court, although it will be quite difficult to adequately enforce such an agreement.

Loss adjustment reports and other survey reports that have been prepared according to policy terms are deemed to have been prepared for the benefit of both parties and are not privileged.

4.3 Do the courts have powers to require witnesses to give evidence either before or at the final hearing?

Under the new judicial process, which is applicable as from 1st January 2016, witnesses do not give oral evidence during a court hearing. Instead, they make a written testimony under oath before a notary public, a County Court, or a Greek consular officer (if the witness resides abroad), which is submitted to the Court. Such written statements take place before the trial and are disclosed to the other party. Each litigant is allowed to submit up to five testimonies to support its allegations, as well as up to three additional testimonies to challenge the testimonies submitted by its counter-party. Courts have discretion to examine, during an oral hearing, either the litigating parties themselves (in case of legal entities their legal representative), or one of the witnesses who are selected and proposed by the litigants. Only one witness for each litigant is allowed. However, courts exercise such discretion only on rare occasions. Otherwise, courts do not have the power to examine, on their own initiative, a witness who is not proposed by the parties. In practice, it is not possible for a party to examine a witness, unless the latter is willing to give evidence.

4.4 Is evidence from witnesses allowed even if they are not present?

Evidence by witnesses is not given in person, unless the court orders an oral hearing (which is unlikely).

4.5 Are there any restrictions on calling expert witnesses? Is it common to have a court-appointed expert in addition or in place of party-appointed experts?

Expert evidence is admissible whenever technical, or scientific issues are involved, or issues requiring some professional experience or other special knowledge. In this context, it is always possible to submit to the court expert witness in the form of a written testimony under oath, or even a written statement not accompanied by a formal oath.

The court may appoint, either on its own initiative, or following an application by one of the litigants, one or more technical experts from a list of experts maintained in each court, if evidence as to technical issues is required. Hence, a court may appoint i.e. engineers, loss adjusters, accountants, doctors, etc. to give expert evidence. In the absence of an application by a litigant, courts only rarely take the initiative to appoint a technical expert.

4.6 What sort of interim remedies are available from the courts?

It is possible to apply for an interim-summary order for pre-trial disclosure of documents, or even for a "search order" (i.e. an order to search the premises and files of a party in order to trace documents). Such an application may be filed either before or after the filing of a legal action. In all such cases, the applicant needs to show that, on a balance of probabilities, it is more likely than not that: (a) they have a good arguable case; and (b) there is some urgency, making an interim order necessary, or there is a risk that evidence will be lost or destroyed, or that it will be difficult to trace it in the future. Greek courts are likely to grant orders relating to disclosure of specific documents in the possession of other parties, but they are highly unlikely to grant a "search order" in insurance cases.

A summary judgment against an insurer in connection to insurance compensation (i.e. ordering freezing of assets to secure payment) is highly improbable, as insurers are deemed to be supervised by the State and are, in principle, considered to be creditworthy.

4.7 Is there any right of appeal from the decisions of the courts of first instance? If so, on what general grounds? How many stages of appeal are there?

A judgment issued from a court of first instance is under a full review before the Court of Appeal. Such a full review includes both matters of fact and matters of law. The judgment of the Court of Appeal is fully enforceable and is subject only to review by the Supreme – Cassation Court (called "*Areios Pagos*" in Greek). The review of the Cassation Court is solely deduced to matters of law. The Cassation Court may issue an order to stay enforcement proceedings of an appeal court judgment. Although it is rather rare in practice, a court of first instance has discretion to provide that its judgment is immediately enforceable (fully or partly), before a review by the Court of Appeal takes place.

4.8 Is interest generally recoverable in respect of claims? If so, what is the current rate?

Under Greek law, unless a contractual clause provides otherwise, an insurer is liable to pay statutory (default) interest as from the date when the insured event occurred. The current rate of default interest is 7.25%. The parties are not allowed to agree for a higher rate. Courts are obliged to award interest at this rate, unless it can be established that the debtor had genuine and reasonable grounds to believe that there was no valid and meritorious claim against them, but this is rather exceptional and unrealistic in insurance claims. The creditor may also claim for compound interest with a separate and distinct legal action and only in connection to default interest that has already accrued for a period of at least one calendar year.

Under the Greek law, it would be unrealistic to claim against an insurer damages for late payment (other than default interest), such as loss of profits, or loss of a rising market, or some other market opportunity.

4.9 What are the standard rules regarding costs? Are there any potential costs advantages in making an offer to settle prior to trial?

The law as to judicial costs has been recently revised in an attempt to discourage unmeritorious or exaggerated claims, but it seems that the law still remains unsatisfactory on this matter.

If the plaintiff's legal action is fully upheld in all its requests, they are awarded legal costs ranging from 3% to 4% on the volume of the amount that the judgment has awarded; while, if the legal action is rejected in its entirety, the defendant is awarded legal costs at a rate of 2% on the volume of claim raised against them.

In the case that the legal action is partly upheld and partly rejected, the court has discretion to allocate legal costs according to the extent of victory and defeat of each party. This means that courts cannot proceed with a full set off of legal costs between the litigants; instead, the court is obliged to award some legal costs to one of the parties. In practice, courts usually award legal costs in favour of the plaintiff and against the defendant at a rate of 3–4% on the volume of claim that has been judicially upheld and awarded. This may be quite obscure because the plaintiff will be awarded legal costs, even if the greatest part of the claim is rejected.

There is only one case in which courts may provide for a full set off of legal costs. This is when the outcome of a case depends on a significantly difficult and complex issue of legal interpretation.

The mentioned volume of legal costs is awarded even if the litigants do not specifically raise a claim as to legal costs. The parties, though, are allowed to submit a list with the costs they incurred and make a specific claim, but the courts do not award costs that are either unreasonable or exaggerated. In practice, the rates mentioned above are hardly exceeded.

Depending on how well grounded a claim is, there is potential for early settlement of a case because it will save the insurer from paying legal costs and default interest. However, in case of an unmeritorious or exaggerated claim, a settlement is usually not advisable. The overall legal process in Greece makes it rather favourable to insurers to litigate because the insured has to overcome great difficulties as to evidence.

4.10 Can the courts compel the parties to mediate disputes? If so, do they exercise such powers?

There is no obligatory mediation under Greek law. However, mediation agreements are enforceable and if there is such an agreement, which has not been fully followed, courts will stay proceedings.

4.11 If a party refuses to a request to mediate, what consequences may follow?

As mediation is strictly voluntary, no specific consequences are provided in case one of the parties refuses to mediate.

5 Arbitration

5.1 What approach do the courts take in relation to arbitration and how far is the principle of party autonomy adopted by the courts? Are the courts able to intervene in the conduct of an arbitration? If so, on what grounds and does this happen in many cases?

In Greece, national arbitration is overall rather rare and the parties

usually do not favour it, because it is not adequately efficient. International arbitration is common but relates only to international disputes. As far as insurance cases are concerned, they are rarely referred to arbitration. However, international arbitration is standard practice in reinsurance policies, in which foreign reinsurers are parties.

Arbitration is not legitimate in consumer insurances.

In connection to commercial insurances, international arbitration is common only in "large risks" policies (mainly marine and aircraft). With respect to "other risks", the local substantive insurance contract law is mandatory and this makes international arbitration impractical.

Greek courts are supportive of arbitration and not supervisory. They intervene only rarely and only on grounds specifically provided by the relevant legislation, such as, if the parties cannot agree on the appointment of arbitrators, if there are grounds to discharge an arbitrator from his duties, if the arbitration clause is invalid, etc.

5.2 Is it necessary for a form of words to be put into a contract of (re)insurance to ensure that an arbitration clause will be enforceable? If so, what form of words is required?

The agreement on arbitration must be in writing. The language has to be clear and unambiguous, as well as precise and specific. A proper arbitration clause usually refers to a specific arbitration body (such as the ICC, or the London Court of International Arbitration) and it identifies the arbitration procedure to be followed, as well as the language and place of the proceedings.

5.3 Notwithstanding the inclusion of an express arbitration clause, is there any possibility that the courts will refuse to enforce such a clause?

An arbitration clause is illegitimate in consumer insurances.

In addition, courts will be reluctant to enforce an arbitration clause which is not sufficiently clear, unambiguous, precise and specific.

The "principle of separation" applies and an arbitration clause remains valid and enforceable, even if other clauses of the policy, or the policy as a whole, is invalid on some ground.

5.4 What interim forms of relief can be obtained in support of arbitration from the courts? Please give examples.

In case of arbitration proceedings, courts will provide support by way of injunction in connection to disclosure and preservation of evidence, as per question 4.6 above.

5.5 Is the arbitral tribunal legally bound to give detailed reasons for its award? If not, can the parties agree (in the arbitration clause or subsequently) that a reasoned award is required?

Unless otherwise expressly agreed in writing by the parties, arbitral awards are reasoned.

5.6 Is there any right of appeal to the courts from the decision of an arbitral tribunal? If so, in what circumstances does the right arise?

Unless otherwise expressly agreed in writing by the parties, arbitral awards are not subject to review or appeal.

However, they are subject to annulment by the court of appeal on the following grounds: (a) if the arbitration clause is invalid, or the arbitration agreement expired or was terminated; (b) if the appointment of the arbitrators, or the arbitration proceedings, or the arbitral award does not comply with the respective specifications and prerequisites set by the arbitration clause; (c) if the arbitrators exceeded the powers they were granted by the arbitration clause; (d) if the arbitral award is unclear, vague, or inconsistent, or if it violates public policy; and (e) if there are grounds for the re-opening of the case, i.e. if some evidence subsequently proved untrue, or new evidence appeared which was not available during the proceedings. Annulment is, however, rare and exceptional.

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