

Executive summary and overview of the national report for Greece

Section I – Summary of findings	
<p>Under Greek law, there is no explicit statutory basis for bringing actions for damages for infringement of EC or national competition law. The basis for such action, as for all actions for damages, is Article 914 of the Greek Civil Code establishing tort liability. In Greece, Civil Courts have jurisdiction to hear actions for damages as a result of anti-competitive behaviour.</p> <p>There are no limitations on standing of natural or legal persons, including those from other jurisdictions, for bringing an action for damages before national Courts. The cumulative substantive conditions for claiming damages are three: unlawful act, damage and the existence of a causal link between the unlawful act and the damage. Under Greek law, the infringement has to imply fault (intent or negligence).</p> <p>The law provides for two forms of compensation: pecuniary damages and reasonable pecuniary satisfaction. Pecuniary damages relate to injury to goods having an economic value and can be paid either in kind (in natura restitution) or through monetary compensation. Reasonable pecuniary satisfaction is awarded in case of moral damage, i.e. damage to non-pecuniary goods.</p> <p>Each litigant has the burden to prove those facts which, under the applicable legislative provision, constitute conditions for the award of the type of protection sought. The Court is restricted to the adjudication of the object of the dispute as this is determined by the parties' allegations.</p> <p>The standard of proof laid down by the law is the standard 'beyond any reasonable doubt', which means that the Court should require full proof about the truth of the litigants' allegations and its judgment should be free of doubt. Where full proof is not required, it is explicitly provided for by the law. Only specific means of evidence are recognised by the law: confession, documents, inspection, expert opinion, examination of litigants and witnesses, legal presumptions. Witnesses' cross examination is permissible.</p> <p>By virtue of the law, decisions of the Greek Competition Commission, when final, are binding on national Civil Courts, while decisions of foreign Competition Authorities or foreign Courts are freely assessed by national Courts. The burden, however, of putting forward such statements or decisions as supportive evidence during the proceedings lies on the parties.</p> <p>Damages are assessed on the basis of injury suffered by the plaintiff. No economic models exist under Greek law for the calculation of damages. Instead, the amount of damages is determined by the Court on the basis of three basic principles: the existence of causation (<i>theory of causa adequata</i>), the comparison between the pre and post damage economic situation of the injured party (<i>theory of difference</i>) and the concrete assessment of damage. National Courts use ex post estimates for the calculation of damages.</p> <p>Under Greek law, the time limit in which to institute proceedings is 5 years from the time when the injured party became aware of the damage and the person liable to compensate him. In any case, such claim is prescribed 20 years after the commitment of the unlawful act. From the filing of an action for damages, on average it may take 2-3 years for a Court decision at first instance and 1-2 years on appeal.</p>	
Section II – status quo and forthcoming reforms – action for damages	
A. Legal Basis	
(i) Is there an explicit statutory basis?	No explicit statutory basis. The basis for bringing an action for damages is Article 914 of the Greek Civil Code establishing tort liability.
(ii) Is this statutory basis different from other actions for damages?	No
(iii) Is there a distinction between EC and national law in this regard?	No
B. Competent court	
(i) Which courts are competent?	Civil Courts
(ii) Are there specialised courts for private enforcement of competition rules?	No

C. Standing	
(i) Limitations on standing of natural or legal persons, including those from other jurisdictions?	No
(ii) What are the connecting factor(s) required with the jurisdiction in order for an action to be admissible?	<ul style="list-style-type: none"> - Persons domiciled in the EC can be sued before the Courts of the place where the harmful event (breach of competition rules) or damage has occurred. - Persons domiciled outside the EC can be sued before the Courts of either the place where they have assets or the place where the harmful event (breach of the competition rules) has occurred, if it constitutes a criminal act.
(iii) Is there a possibility of collective claims, class actions, actions by representative bodies or any other form of public interest litigation?	No
D. Procedural and substantive conditions	
(i) What forms of compensation are available?	<p>For pecuniary damage: monetary compensation or <i>in natura</i> restitution.</p> <p>For moral damage: indemnity as a 'reasonable pecuniary satisfaction'.</p>
(ii) What are the other forms of civil law liability (if any)?	A legal entity is liable for the unlawful acts committed by its representatives, who remain jointly and severally liable with the legal entity.
(iii) Does the infringement have to imply fault?	Yes
(iv) If so, is fault based on objective criteria?	Yes
(v) Is bad faith (intent) required?	Yes
(vi) Can negligence be taken into account?	Yes
E. Rules of evidence	
a. General	
(i) Burden of proof and identity of the party on which it rests?	<ul style="list-style-type: none"> - Each litigant has the burden to prove those facts which, under the applicable legislative provision constitute conditions for the award of the type of protection sought. The Court is restricted to the adjudication of the object of the dispute as this is determined by the parties' allegations. - Where the law sets a legal presumption, the burden of proof is reversed to the other party.
(ii) Standard of proof	"Beyond reasonable doubt"
(iii) Limitations concerning form of evidence	<p>The law recognises specific means of evidence:</p> <ul style="list-style-type: none"> - confession - documents - inspection - expert opinion - examination of litigants - examination of witnesses - legal presumptions

(iv)	Rules on (pre-trial or other) discovery within and outside the jurisdiction of the court vis-à-vis parties	Not provided
(v)	Rules on (pre-trial or other) discovery within and outside the jurisdiction of the court vis-à-vis third parties	Not provided
(vi)	Rules on (pre-trial or other) discovery within and outside the jurisdiction of the court vis-à-vis competition authorities (national, foreign, Commission)	Not provided
b. Proving the infringement		
(i)	Is expert evidence admissible?	Yes
(ii)	To what extent, if any, is cross examination permissible?	Witnesses' cross examination is permissible.
(iii)	Under which conditions does a statement and/or decision by a national competition authority, a national court, an authority from another EU Member State have evidential value?	<ul style="list-style-type: none"> - Decisions of the Greek Competition Commission when final, are binding on national Civil Courts. - Decisions of foreign Competition Authorities or foreign Courts are freely assessed by the Greek Civil Courts; the litigants must alert the Court to their existence and submit them as supportive evidence.
c. Proving damage		
(i)	Are there any specific rules for evidence of damage?	No
d. Proving causation		
(i)	Which level of causation must be proven: direct or indirect?	Indirect, which shall cover both direct and indirect damage.
F. Grounds of justification		
(i)	Are there grounds of justification?	Yes
(ii)	Is the 'passing on' defence taken into account?	Yes, it is assessed in the context of proof of damage.
(iii)	Are 'indirect purchaser' issues taken into account?	The law attributes a right to claim damages to the party which has directly suffered damage.
(iv)	Is it relevant that plaintiff is (partly) responsible for the infringement (contributory negligence leading to apportionment of damages) or has benefited from the infringement?	Yes – the Court may reduce the amount of compensation accordingly.
G. Damages		
a. Calculation of damages		
(i)	What economic or other models are used by courts to calculate damage?	No economic models exist. Instead, the amount of damages is determined on the basis of three basic

		principles: <ul style="list-style-type: none"> existence of causation, 'theory of <i>causa adequata</i>' comparison between pre and post damage economic situation, 'theory of difference' and concrete assessment of damage.
(ii)	Are damages awarded for injury suffered on the national territory or more widely (EC or otherwise)?	More widely, if such damage can be proved and provided that Greek Courts have jurisdiction thereon.
(iii)	Are ex ante (time of injury) or ex post (time of trial) estimates used?	Ex post
(iv)	Are there maximum limits to damages?	No
(v)	Are damages assessed on the basis of profit made by the defendant or on the basis of injury suffered by the plaintiff?	Damages are assessed on the basis of injury suffered by the plaintiff.
(vi)	Are punitive or exemplary damages available?	No
(vii)	Are fines imposed by competition authorities taken into account when settling damages?	No
b. Interest		
(i)	Is interest awarded from the date the infringement occurred the date of the judgment or the date of a decision by a competition authority?	Interest is awarded from the day of the service of the lawsuit to the defendant or from the time the plaintiff served an extra-judicial statement of default to the defendant, requesting payment of a specific amount.
(ii)	What are the criteria to determine the levels of interest?	The interest rate is set by the law.
(iii)	Is compound interest included?	No
H. Timing		
(i)	What is the time limit in which to institute proceedings?	Five years from the time when the injured party became aware of the damage and the person liable to compensate him. In any case, such claim is prescribed 20 years after the commitment of the unlawful act.
(ii)	On average, how long do proceedings take?	From the filing of an action for damages, 2-3 years for a Court decision at first instance and 1-2 years on appeal.
(iii)	It is possible to accelerate proceedings?	No
(iv)	How many judges sit in actions for damages cases?	For Claims for damages above € 80,000: First Instance: 3 judges (multi-member First Instance Court) On appeal: 3 judges (Court of Appeal) Actions for cassation against decisions of Court of Appeal: Chamber of 5 members (Supreme Court of Appeal).

(v)	How transparent is the procedure?	Procedure before all degrees is transparent.
I. Legal costs		
(i)	Are Court fees paid up front?	No, only the judicial duty is paid in advance.
(ii)	Who bears the legal costs?	<ul style="list-style-type: none"> - The defeated party bears the legal costs. - In the event of partial winning and partial defeat of each litigant, allocation of legal costs is made on a proportional basis. - If the interpretation of the invoked rule of law was difficult and the outcome of the trial reasonably uncertain, legal costs may be set off between litigants.
(iii)	Are contingency fees permissible?	Contingency fees are not permissible, whereas conditional fee agreements are. However, lawyer's remuneration cannot exceed an amount equal to 20% of the claim.
(iv)	Are contingency fees generally available for private enforcement of EC competition law?	No
(v)	Can the plaintiff/defendant recover costs?	Yes
(vi)	What are the different types of litigation costs?	<ul style="list-style-type: none"> o Judicial duty; o lawyers' fees; o witnesses expenses; o remuneration of the experts; o travel expenses of the parties; o contributions to Lawyers' Funds.
(vii)	Are there any national rules for taxation of costs?	Costs are recoverable under the limitations provided in the law.
(viii)	Is any form of legal aid insurance available?	Yes
(ix)	What are the likely average costs in an action brought by a third party in respect of a hard-core violation of competition law?	Depends on the amount of claim.
J. General		
(i)	Are some of the answers to the previous questions specific to the private enforcement of competition rules?	No
(ii)	If the answer to the previous question is yes, in what way do they differ from general private enforcement rules?	—
(iii)	EC competition rules are regarded as being of public policy. Does that influence any answers given?	No
(iv)	Are there any differences according to whether defendant is public authority or natural or legal person?	No
(v)	What are the key differences, if any, from region to region <u>within</u> the Member State as	Greece is not divided in regions with different legal systems.

	regards damages actions for breach of national or EC competition rules?	
(vi)	Is there any interaction between leniency programmes and actions for claims for damages under competition rules?	No
(vii)	Please mention any other major issues relevant to the private enforcement of EC competition law in your jurisdiction	Training seminars in competition law matters, would facilitate the judicial body in its functions.
(viii)	Please provide statistics about the number of cases based upon the violation of EC competition rules in which the issue of damages was decided upon	No published statistics exist.
Section III: Means to facilitate private enforcement of Articles 81 and 82 EC		
(i)	Which of the above elements of claims for damages as applied in each Member State and accession country provide scope for facilitating the private enforcement of Articles 81 and 82 EC?	Private enforcement could be facilitated by the establishment of non-fault liability or the switching of the burden of proof of the fault.
(ii)	How could that be achieved?	By legislative reform. An example of non-fault liability is product liability. This was established in the Greek legal order by virtue of Article 6 of Law 2251/1994 on Consumer Protection, which Article has implemented Council Directive 85/374 on the Approximation of Laws, Regulations and Administrative Provisions of the Member States concerning Liability for Defective Products.
(iii)	Are alternative means of dispute resolution available?	Yes, arbitration, if a relevant clause exists in the agreement, as well as out of court settlement.