

Civil Procedure Law I

Guide to Greek Civil Procedure Law

Introduction

The following section outlines the main features of Greek civil procedure and also highlights significant differences to German civil procedure.

The relevant legal source is the Greek Code of Civil Procedure (ZPO). Its last comprehensive reform took place in 2015 with Law No. 4335/2015. Since then, the Greek Code of Civil Procedure has been subject to regular amendments, meaning that the following information can only be guaranteed to be correct at the time of writing (status: 16.02.2023) and may need to be updated.

1. Determining the competent court

As in Germany, the civil courts in Greece have jurisdiction for all private legal disputes.

The legal dispute is initiated by filing a lawsuit with the competent court.

a) International Jurisdiction

In international cases, it must first be examined whether the Greek courts as such have international jurisdiction.

Within the EU, European Regulation No. 44/2001 (Brussels I Regulation) and its new version No. 1215/2012 (Brussels Ia Regulation or Brussels I Regulation) are primarily relevant for determining international jurisdiction. Which of the two versions applies depends on when the respective proceedings were initiated (immovable property is located).

Further overviews can be found on the website of the European legislative portal EUR-Lex:

<https://eur-lex.europa.eu/legal-content/DE/TXT/?uri=LEGISSUM%3A133054> (Overview of the Brussels I Regulation → since the content of the provisions on international jurisdiction has remained largely unchanged in the course of the above-mentioned recast of the Regulation, reference can continue to be made to this overview).

https://eur-lex.europa.eu/legal-content/DE/TXT/?uri=LEGISSUM:230203_1 (Overview of the innovations of the Brussels Ia Regulation/EuGV Regulation)

Following international jurisdiction, the Greek court with territorial and substantive jurisdiction must be determined in accordance with the national provisions of Greek law.

b) Subject matter jurisdiction

In most cases, subject matter jurisdiction is based on the amount in dispute and is regulated as follows:

- the local court (gr. "Irinodikio") has jurisdiction for claims with an amount in dispute of up to € 20,000
- the regional court with a single judge (gr. "Monomeles Protodikio") is responsible for claims over € 20,000 up to € 250,000
- the regional court with a chamber composition (gr. "Polimeles Protodikio") is responsible for claims over € 250,000

c) Local jurisdiction

The court with local jurisdiction is generally based on the defendant's place of residence (general place of jurisdiction).

In addition, the Greek Code of Civil Procedure also recognizes special places of jurisdiction: for example, in the case of disputes concerning contractual obligations, an action may be brought either at the place of performance or at the place where the contract was concluded; actions in tort may be brought before the court at the place where the damaging event occurred, etc.

The plaintiff has the choice between the general and any relevant special place of jurisdiction.

There are also exclusive places of jurisdiction. In these cases, the plaintiff is generally obliged to bring the action exclusively before the court designated by law. This applies, for example, to actions in connection with real estate: the exclusive local jurisdiction for this exists in the court district in which the property is located.

2. General Nature of the Proceedings

As a general procedural principle, it should be noted that the Greek civil process, as in Germany, is a party process, i.e. the parties have the right to determine the beginning, end and essential course of the process. On the other hand, they also have the duty to provide the necessary facts and evidence.

Compared to Germany, however, the party principle is even more pronounced in Greece: all service of process, e.g. service of the complaint and later of the judgment on the opposing party (more on the latter point in section 3.c.ff.) is generally only affected at the instigation of the parties and not, as in Germany, ex officio by the court. The same applies to summonses.

3. Types of Proceedings

a) Ordinary and special proceedings

There are two basic types of procedure for first-instance disputes under private law: the **ordinary** and the **special** procedure (appeal and revision in turn provide for independent procedural rules, but refer in part to provisions of the first-instance procedure).

The special procedure only applies if it is expressly prescribed by law. This is the case in:

- Disputes concerning family, marriage and non-marital cohabitation
- special property disputes: Tenancy disputes, labor law disputes, traffic accidents, etc.

In all other cases, the ordinary procedure applies (see below for more details).

The main difference between the two types of proceedings is that in the special proceedings, the procedural material is heard in a single, promptly scheduled oral hearing, whereas since the reform in 2015, the ordinary proceedings are essentially written proceedings in which the entire procedural material is submitted in writing.

b) Voluntary jurisdiction

As in Germany, there is also a separate type of procedure known as voluntary jurisdiction. This is used for matters that have civil law content but do not constitute a legal dispute (e.g. adoption, divorce by mutual consent, founding an association, opening a will, etc.).

In these cases, the proceedings do not begin with an action, but with the submission of an application to the competent court. This is usually a request under public law addressed to the state, which is aimed at the binding certification of a legal transaction or the establishment of a legal status.

The voluntary jurisdiction procedure is more flexible than the usual civil court procedure: For example, the presentation of significant new facts is permitted at every stage and the judge has a wide discretionary scope without formal restrictions when determining the truth.

c) Course of the ordinary proceedings

aa) Filing an action

The ordinary procedure, like the special procedure, begins with the filing of the action with the competent court. It should be noted that, unlike in Germany, there is no court mailbox, which means that actions must be filed by the lawyer (or trainee lawyers) in person at the court registry.

In the meantime, some courts also allow electronic filing of complaints. The use of this option is voluntary (compare this with the obligation for lawyers in Germany since

1.1.2022 to submit complaints electronically via the special electronic lawyers' mailbox (beA).

Once filed, the action must be served on the defendant at the plaintiff's instigation and expense. Service is usually affected as a written document by the bailiff.

Although the law also provides for an electronic option for service of the action, this has high requirements (specially certified bailiff for electronic service, qualified electronic signature, etc.).

Excursus: Service in special cases

If the defendant has an unknown address, service is affected by public notice in at least two daily newspapers.

If the defendant is domiciled abroad, the action will be forwarded abroad and served there by way of judicial administrative assistance.

bb) Time limits

A copy of the statement of claim must be served on the defendant within 30 days of its submission. If the defendant lives abroad or has an unknown address, the time limit for service is 60 days.

After the expiry of these 30 or 60 days, there is a further period of 90 days within which both parties must submit all written pleadings and evidence to the competent court. If the defendant is resident abroad or has an unknown address, a longer period of 120 days also applies here.

After these 90 or 120 days have expired, the parties have another 15 days to respond to the pleadings submitted so far (reply/duplicate).

The composition of the court must be determined within a further 15 days and the hearing date must be scheduled within a further 30 days.

However, the latter two deadlines are often not observed in practice. Instead, for example at the local court in Athens, a period of one and a half years can regularly be expected for the appointment of the court and the date of the hearing.

cc) Legal consequences of bringing an action

The most important procedural legal consequence of bringing an action is *Lis pendens*, which means that the same subject matter of the dispute cannot be asserted between the same parties before any other court for the duration of the pending proceedings.

The most important legal consequence under substantive law is the interruption of the limitation period, which means that the original limitation period is interrupted for the

duration of the proceedings when the action is served on the defendant and begins to run anew once a final judgment has been issued in the case (under the German Code of Civil Procedure, on the other hand, the filing of the action only leads to a suspension of the limitation period).

If the parties fail to accelerate the proceedings and bring them to a conclusion, the new limitation period generally begins to run within 6 months of the last procedural act by the parties or the court.

A further legal consequence is that, as in Germany, procedural *Lis pendens* interest accrues from the time of *Lis pendens*. This is 2 % higher than the default interest rate, which is set by law at regular intervals (as at 16.02.23: 10.25 %).

From the date of publication of a legally binding judgment on payment, this procedural interest even increases to 3% above the statutory default interest rate.

dd) Main hearing - special features

Since the above-mentioned major reform of the Code of Civil Procedure in 2015, ordinary proceedings have essentially been conducted in writing. The legal aim of this reform was in particular to speed up the often extremely lengthy court proceedings, which has only been partially successful.

The hearing date in ordinary proceedings is therefore no longer an oral hearing in the true sense of the word, as we know it from German civil proceedings. Instead, at the main hearing date, the court regularly only states that the parties have submitted their applications and written submissions and that the court is now dealing with the matter. Oral evidence is only taken in exceptional cases by special order. Instead, witness statements are submitted in writing as affidavits. In practice, the parties often do not even appear at the hearing in ordinary proceedings.

ee) Taking of evidence, evidence

Each party bears the burden of proof for the facts presented by it and favorable to it.

Admissible means of evidence under the Greek Code of Civil Procedure are: Confession, visual evidence, expert opinion, documents, examination of parties and witness statements.

According to the new ordinary procedure, all evidence must be submitted in writing before the hearing date. In particular, witnesses are generally no longer heard orally, but instead provide written affidavits (these are only admissible as evidence in interim legal protection in Germany). These are practically the most important form of evidence.

Authorized bodies to take such an affidavit are a Greek notary, district judge or (according to more recent legislation) also a lawyer, either at the place of the court dealing with the

legal dispute or at the place of residence/stay of the witness and also, the Greek consulate at the place of residence/stay of the witness.

The witnesses must be summoned in writing in good time, at least two working days in advance, and the other party must be notified of this within the same period.

The evidence presented shall be assessed by the court at its own discretion.

ff) Judgment - publication, service, provisional enforceability

The judge must issue a judgment no later than 8 months after the main hearing (however, this deadline is sometimes exceeded in practice).

Unlike in Germany, the judgment is neither announced orally nor served on the parties to the proceedings ex officio. Instead, they must regularly enquire themselves as to whether a decision has already been issued, either at the court registry or online via a website set up for this purpose (not available for all courts).

If a decision has been issued, it can be ordered by lawyers via the local bar association. Private individuals, on the other hand, can only collect the decision from the court on site.

The judgment is then also only served on the other party at the expense and instigation of the litigant who has an interest in it. The parties are therefore also in control of when the appeal period begins to run (more on this in section 8.a.).

Unlike in Germany, the court does not make an ex officio ruling on provisional enforceability, i.e. the enforceability of a judgment until it becomes final. Instead, the successful party who wishes to provisionally enforce the judgment must apply for this separately and the court will then decide whether there are sufficient grounds for doing so.

gg) Compulsory representation by a lawyer

The parties are generally obliged to be represented by a lawyer in all civil court disputes. The lawyer must be granted a special power of attorney for this purpose.

Appearing without a lawyer is only permitted in exceptional cases:

- in so-called minor disputes (“mikrodiafores”) before the local courts that concern claims and rights relating to movable property and whose value in dispute does not exceed €5,000
- in urgent cases to avert imminent danger.

4. Litigation Costs

As in German procedural law, the distribution of legal costs under the Greek Code of Civil Procedure is generally determined by who wins or loses the legal dispute.

In the event of a mutual partial victory/partial defeat, the costs are often not distributed proportionately but are set off against each other, which means that each party bears its own costs.

The central cost items in legal proceedings are

- Court stamp duty in the amount of approx. 1.1% of the amount in dispute (“dhikastiko ensimo”), which the plaintiff must provide proof of payment by the main hearing and which is a prerequisite for the case to be heard
- statutory minimum lawyer’s fees (gr. “grammateio”) and any further agreed lawyer’s fees
- Bailiff’s fees for service of the claim on the opposing party
- If applicable, further fees for the service of summons to witnesses, the defendant, etc.

5. Mediation

In civil and commercial disputes, lawyers must inform their clients about the possibility of voluntary out-of-court mediation before filing a lawsuit and provide evidence of this to the court. Otherwise, the court will declare the action inadmissible.

There are also some types of disputes (in particular disputes in ordinary proceedings with an amount in dispute of more than € 30,000 and some family law matters) in which the mere provision of information about the possibility of out-of-court mediation is not sufficient, but must be carried out before the action is filed, otherwise the action will be dismissed as inadmissible.

In these cases, it is also necessary to prepare a record of the mediation that has taken place, which must be submitted to the court by the plaintiff before the main hearing takes place.

In individual cases, the court itself may also make the parties an offer of court mediation if it deems it appropriate in the specific dispute. The parties are free to accept this offer.

Unlike in German civil proceedings, the main hearing in dispute is therefore not always preceded by an obligatory court conciliation hearing.

6. Default and its consequences

If the plaintiff does not serve the claim within the above-mentioned deadlines after the claim has been filed or does not submit the required additional written pleadings and evidence, the claim will be treated as if it had never been filed.

If the plaintiff does not appear at an oral hearing, the court shall dismiss the action by default judgment.

If the defendant does not submit any written pleadings in the written proceedings, the court will issue a default judgment against him.

If the defendant does not attend an oral hearing, the court first checks whether he was properly summoned. If this is the case, the case will be heard as normal despite the defendant's absence, with the plaintiff's allegations being taken as admitted. A default judgment is issued on this basis. If, on the other hand, the court finds that the defendant was not properly summoned, the hearing is declared inadmissible and the plaintiff must duly summon the defendant to a new hearing.

The same principles apply in the appeal instance.

In the first two instances, there is a special legal remedy against a default judgment, the objection (as in German procedural law). However, the appeal remains admissible.

In the appeal instance, slightly different principles apply: If the appellant does not appear at the hearing, the competent supreme court (the "Areios Pagos") deliberates and decides as if both parties were present on the basis of the files before it.

If the defendant does not attend the hearing, the court will check whether he was properly summoned. If so, the hearing continues despite the absence of the defendant and the Court decides on the basis of the file as if both parties were present.

Otherwise, the Court declares the hearing inadmissible and the appellant must duly summon the defendant again.

7. Interim Legal Protection

In emergencies or to avert imminent danger, the party with a legitimate interest can apply for an interim injunction before and even after filing an action, which can be used to provisionally secure a right (protective order) or provisionally regulate a legal situation (regulatory order) until the final decision on the action in the main proceedings.

As in Germany, lower standards of proof apply in interim legal protection proceedings than in proceedings on the merits: Unlike there, the court does not have to reach a complete conviction of the facts presented in interim legal protection; rather, it is sufficient to prove their overwhelming probability.

The following requirements must be met for an interim injunction to be issued:

- Existence of a legal claim of the applicant, which can also be granted in the main proceedings

- there is an emergency or imminent danger that threatens to thwart the claim
- Temporary injunction does not create an irreversible situation
- court decision on the merits may not be anticipated as a matter of principle

Some important types of interim injunctions are

- **Guarantee**

The court can demand a surety from the debtor in favor of the creditor of a monetary claim.

- **Prior notice of mortgage**

The mortgage priority notice applies to immovable property and is subject to the condition precedent of a legally binding decision in the main action on the secured monetary claim and the conversion into a mortgage.

Although the provisional mortgage priority notice does not prevent any disposal of the property, it does provide the creditor with a ranking advantage in the event of future enforcement.

- **Provisional seizure**

Seizure is possible for both movable assets (including bank deposits) and immovable assets. It has the effect of preventing any disposal of the seized property.

- **Provisional award of a monetary claim**

The court can provisionally award certain statutory claims (e.g. salary arrears, child maintenance payments, etc.) in whole or in part.

- **Orders to act, tolerate, omit**

The court can temporarily order the defendant to perform, refrain from or tolerate a certain action.

Overall, the court has a wide discretion when selecting the specific measure to be ordered.

No appeal can be lodged against court decisions on interim relief. However, either party can apply for the court order to be amended or terminated if circumstances subsequently change or new facts come to light.

8. Legal Remedies

a) Appeal

With the exception of judgments of the local courts on minor disputes (with a value of no more than € 5,000, see above), an appeal may be lodged against the final judgments of the local courts and regional courts of first instance. The appeal enables a review of the decision in factual and legal terms.

The appeal process is as follows:

- The district court, sitting as a single judge, is responsible for the judgments of the local court
- The Court of Appeal (gr. Efeteio) with a single judge is responsible for the judgments of the Regional Court with a single judge.
- The Court of Appeal (consisting of 3 judges) is responsible for the judgments of the Regional Court in chamber formation

The party that has (partially) lost the case always has the right to appeal. The party who won the first instance proceedings can only lodge an appeal if they have a particular legal interest in doing so.

As mentioned above, the time limit for lodging an appeal begins when the judgment is served on the other party and is 30 days or 60 days if the defendant lives abroad or has an unknown address. The appeal must be lodged with the court that issued the contested decision.

If neither party requests service, the appeal period is two years from publication of the judgment. After this period has expired, the law stipulates that the judgment becomes final.

Since, as already mentioned, unlike in Germany, judgments are not served ex officio but at the instigation of the parties, it is up to the parties themselves to decide whether and when service is affected and thus also when the time limit for lodging an appeal is set in motion. Service is therefore not a neutral act, but to a certain extent already an “act of aggression” by the serving party.

Also unlike in Germany, in Greek law there is no separate time limit for filing an appeal after the time limit for filing, which means that if an appeal is merely filed (and no further grounds are given), this already suspends the legal force of the judgment issued. If the opposing party wishes to obtain a legally binding judgment, it must react and continue the appeal proceedings itself by submitting written pleadings, etc.

The expiry of the appeal period generally prevents the first instance judgment from being enforced, unless it has been declared provisionally enforceable as an exception.

The appellant must pay a court fee for exercising the right of appeal, the amount of which depends on the “rank” of the court decision against which the appeal is lodged:

- against judgments of the local court: € 75
- against judgments of the district court (single judge): € 100
- against judgments of the district court (chamber): 150 €

b) Revision

The judgments of the district courts, the regional courts and the courts of appeal can be appealed against on points of law, provided that no objection (in the case of default judgments, see above) or appeal (any longer) can be lodged against them. The supreme court, the “Areios Pagos”, has exclusive jurisdiction for appeals.

The appeal only allows for a new legal examination, not a further examination of the facts. Furthermore, it is only justified if one of the grounds for appeal provided for in the statutory catalog applies.

The deadline for lodging an appeal is the same as for an appeal and is 30 days from the date of service of the appeal judgment on the opposing party or, if the opposing party lives abroad or has an unknown address, 60 days. The appeal must be lodged with the court that issued the contested decision.

The above applies to the time limit for filing the grounds of appeal.

If the contestable judgment is not served by either party, the absolute time limit for the judgment to become final is again two years from its publication.

In contrast to the appeal period, the expiry of the appeal period does not in principle prevent the judgment from being enforced (an exception to this applies, however, e.g. for matrimonial matters).

The appellant must also pay a court fee for the appeal:

- against judgments of the local court: € 250
- against judgments of the regional court (single judge): € 300
- against judgments of the district court (chamber): € 400
- against judgments of the court of appeal: € 450

9. Simplified procedures for the enforcement of monetary claims

a) Greek payment order procedure

The Greek order for payment procedure essentially corresponds to the German dunning procedure and is used for monetary claims that are due.

The payment order is a directly enforceable title and is issued by the competent judge upon the creditor's admissible and substantiated application, without an oral hearing.

The application must state the exact amount of the claim and must conclusively set out the facts justifying the claim, together with the necessary documents. The application must also be signed by a lawyer.

If the order for payment is subsequently issued, it must be served on the defendant within 2 months, otherwise it becomes invalid.

The defendant has the right to appeal against the payment order by lodging an objection with the court that issued the payment order. The deadline for this is 15 working days from service or 30 working days if the defendant has his place of residence or business abroad. If an objection is lodged, a copy of the notice of objection must be sent to the applicant.

If the objection is admissible, a court hearing will be scheduled to discuss the payment order. If the objection is justified, the payment order is declared null and void. Otherwise, the objection is rejected and the validity of the payment order is confirmed again.

An appeal against this court decision is possible.

It should be noted that filing an objection does not automatically lead to the suspension of any enforcement of the payment order. Instead, a separate application must be made to the competent court for the order to be suspended.

If the debtor does not lodge an objection within the above-mentioned period, the creditor has the option of having the payment order served on the debtor a second time. From this second service, the debtor has another 15 days to lodge an objection. If he fails to do so a second time, the payment order becomes final and binding, which has the advantage that it can no longer be contested by ordinary legal means.

Finally, it should also be mentioned that the service of the payment order, just like the service of the action mentioned above, interrupts the running of the limitation period. Unless the order for payment is later declared null and void, in which case the limitation period is only suspended for the duration of the order for payment proceedings.

b) European order for payment procedure (Regulation (EC) No. 1896/2006)

The European order for payment procedure exists at EU level as an equivalent to the national order for payment procedure. It can be considered for quantified, uncontested monetary claims under civil and commercial law in an unlimited amount with cross-border facts. The latter is the case if the creditor and debtor have their place of residence or business in different EU member states.

The European order for payment is applied for at the competent European order for payment court.

The latter also sends the payment order to the other party. The other party then has the option of repaying the sum of money demanded or lodging an objection to the payment order.

If no objection is lodged in due time, the European order for payment court will issue an enforceable copy of the payment order, which can be used to initiate compulsory enforcement.

However, if a proper objection is lodged, the European order for payment court will transfer the legal dispute to the competent court and the order for payment procedure will become ordinary court proceedings.

For this reason, the European order for payment procedure is not recommended for disputed claims where it is foreseeable from the outset that the other party will lodge an objection, as this would only mean a detour. Instead, an action should be brought directly before the competent trial court.

The necessary application forms and a detailed description of the individual procedural steps can be found on the website of the European e-Justice Portal.

Link: https://e-justice.europa.eu/content_order_for_payment_procedures-41-de.do

c) European Small Claims Procedure (Regulation (EC) No 861/2007)

The European Small Claims Procedure also exists at European level. As an alternative to ordinary court proceedings, this creates a standardized, simplified procedural framework for the judicial assertion of civil and commercial claims (not only claims for monetary payment, but also claims of other kinds) with a value of up to €5,000, with cross-border facts.

The necessary forms and a detailed description of the individual steps can also be found on the website of the European e-Justice Portal.

Link: https://e-justice.europa.eu/content_small_claims-42-de.do
