Corporate Law Briefing: Special Edition

Exclusion of Disqualified Directors from the Management of Corporate Entities

A. **Law 5122/2024**
B. **Disqualified Directors**
C. **Consequences**
D. **Register of Disqualified Directors**
E. **Sanctions**

A. Law 5122/2024

1. Recently, Law 5122/2024[1] (the **Law**) was enacted in order to transpose Article 1 of Directive 2019/1151[2] on the disqualification of natural persons from the management of corporate entities as a result of an irrevocable criminal conviction for various offences (**Disqualified Directors**) into Greek law.

2. The Law aims to protect persons who transact with corporate entities by preventing directors who have been disqualified as a result of criminal behavior falling within the scope of the Law, and equivalent Laws in other Members States, from acting in managerial roles.

B. Disqualified Directors

1. A natural person is disqualified from the management of corporate entities if:

a. they are the subject of an irrevocable criminal conviction for:

i. the violation of the provisions on the settlement of debts and the provision of a second chance for the settlement of such debts[3];

ii. specific crimes provided for in the Greek Criminal Code, indicatively bribery of officials

[1] Government Gazette A' 108/19.07.2024.
[2] DIRECTIVE (EU) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law, Official Journal of the European Union, L 186/80, 11.7.2019.
[3] Articles 197 to 202 of Law 4738/2020.

or judicial officers, theft, embezzlement, robbery, extortion, fraud, acceptance and disposal of proceeds of crime and obstruction of competition;

iii. market abuse[4];

iv. the violation of Greek corporate law[5];

v. smuggling[6]; and

vi. money laundering from criminal activities and the financing of terrorism[7]; or

b. they fall under the Disqualified Director category in another Member State of the European Union, for any of the reasons set out above in a.

C. Consequences

1. A Disqualified Director must not, either during the incorporation of a company or during its operation, be appointed as:

a. a member of the board of directors of a Société Anonyme;

b. the administrator of a Limited Liability Company or Private Capital Company;

c. an attorney-in-fact or legal representative of branches of stock companies;

d. a liquidator;

e. the representative of a legal entity participating in the board of directors of a Société Anonyme;

f. a substitute for the governing body of a stock company; or

g. a person who has the authority to bind the company against third parties and to represent it before the courts.

2. The appointment of a Disqualified Director in any of the above circumstances is null and void.

3. The duration of the disqualification is imposed by an irrevocable court decision and proportional to the gravity of the violation. In particular:

a. in the case of a felony, 15 years from the time the decision became irrevocable; and

b. in the case of a misdemeanor, 5 years from the time the decision became irrevocable.

4. Following the completion of the above disqualification period, the Disqualified Director is automatically deleted from the Register of Disqualified Directors as described below.

D. Register of Disqualified Directors

1. By virtue of the Law, a special Register of Disqualified Directors (the **Register**) has been established in the information system of the Greek General Commercial Register (**GEMI**), in which all Disqualified Directors are registered. The Register is accessible by several public

[4] Articles 28 to 31 of Law 4443/2016.
[5] Articles 176 to 179 of Law 4548/2018.
[6] Article 155 of Law 2960/2001.
[7] Law 4557/2018.

authorities such as the Bank of Greece, the Anti-Money Laundering Authority and the Interconnection System of Business Registers. Individuals can also have access to the data in the Register if they have a special legal interest.

2. The GEMI information systems and the One Stop Shop Service are interconnected with the Register, so that no Disqualified Director may be registered or declared as appointed in any of the positions listed in C.1. above.

E. Sanctions

1. A Disqualified Director who knowingly engages in corporate management activities during the period of disqualification, is subject to a fine ranging from €20k to €500k.
2. Additionally, a fine ranging from €50k to €1m is imposed on companies that knowingly entrust the management of their corporate affairs to a Disqualified Director.



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