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Mandatory mediation in Greece – the saga continuous

Marina Perraki (Tsibanoulis & Partners Law Firm) · Tuesday, December 3rd, 2019

We had reported on the introduction in Greece of mandatory mediation in trademark infringement disputes in this blog [here](#) and [here](#).

Law no 4640/2019 “Mediation on civil and commercial disputes – Further harmonization of Greek legislation with Directive 2008/52/EC of the European parliament and of the council of 21 May 2008 and other provisions” (the Law) was voted by the Greek Parliament and published in the Government Official Gazette on November 29, 2019.

The new law was drafted in order for the Greek mandatory mediation legislation (law 4512/2018 which was to enter into force last year, but was subsequently “frozen”) to conform with a Supreme Court opinion that mandatory mediation as construed in that law was obstructing the right of access to justice, and also with a decision of the CJEU finding that the mediation law before that, law 3898/2010, was violating EU law in certain aspects concerning training of mediators and recognition of accreditation of EU mediators.

The Law provides for mandatory mediation for all civil and commercial disputes of a monetary claim of 30,000 euros and more, as well as for non – monetary claim disputes (e.g. claims for prohibiting IP infringement). These provisions are not applicable on preliminary injunction petitions.

According to the Law, an “initial mediation session”, in which the mediator informs the parties on the nature of the mediation process, is mandatory before a law suit is heard. If the parties agree to mediate, they may do so at or after this first session.

Failure to submit to the court a) evidence that the parties have been informed of the mediation and the first mediation session, and b) evidence for conducting the first mediation session, shall result to the law suit being dismissed, as inadmissible. If a party fails to attend the first mediation session, the Court may impose monetary sanctions on it.

The plaintiff’s lawyer shall agree with the other party on the mediator, or submit a request to a mediator of his choice. If the parties do not agree on the person to be appointed as mediator in the first session, or the mediator appointed by the plaintiff cannot contact the defendant to receive approval or if the defendant does not agree to this mediator, a mediator shall be appointed by a third party, the Central Mediation Committee, from the list of accredited mediators of the Ministry of Justice, where also foreign (EU) accredited mediators can enter.

The first mediation session shall take place within 20 days after the mediation request of the plaintiff to the mediator, if the parties reside in Greece, and 30 days, if any of the parties resides abroad. The parties shall be notified by the mediator in writing at least 5 days prior to the scheduled first mediation session. The mediation must be concluded within 40 days after the 20 or 30 days, unless the parties agree on an extension.

The parties, as well as their attorneys-at-law, must all appear at the first mandatory session. Certain exceptions apply for parties that are unable to attend, which in this case are represented by their attorneys.

The new mandatory mediation provisions will enter into force in March 15, 2020 for all commercial and civil disputes. For family law disputes they shall enter into force on January 15, 2020.

It is expected that with these new provisions, mediation shall become an alternative of which the parties shall make the most, as an opportunity to resolve their disputes in a cost and time effective manner, with a corresponding relief of courts from their burden.

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