

PANORAMIC

STATE AID

Greece



LEXOLOGY

State Aid

Contributing Editor

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OVERVIEW

Policy and track record

Outline your jurisdiction's state aid policy and track record of compliance and enforcement. What is the general attitude towards subsidies in your system?

Energy and sustainability are currently among the policy priorities of Greece. Greece aims at promoting the EU's strategic objectives relating to the EU Green Deal. Greece's Recovery and Resilience Plan includes an integrated and coherent set of reforms and investments structured in four pillars, (ie, green transition, including sustainable use of resources, climate resilience and environmental protection), digital transformation, employment, skills and social cohesion and private investments and transformation of the economy (see <https://greece20.gov.gr/en/pillars-and-components/>). In this context, for example, a scheme has been designed, providing for aid under Recovery and Resilience Facility to support development of electricity storage facilities (estimated budget €341 million); this measure was aimed at allowing a smooth integration in the Greek electricity system of an increasing share of renewable energy coming from wind and solar sources (see SA.64736, 5 September 2022).

The security and diversification of energy supplies in Greece is of high importance. In this context, the European Commission (EC) approved (SA.105781, 29 September 2023) a €106 million Greek measure to support the completion of the construction of the liquefied natural gas (LNG) terminal in Alexandroupolis; a measure that complemented the public support that was previously approved by the EC (SA.55526, 17 June 2021). Given its strategic importance for the diversification of natural gas supplies into the southeastern European region, the LNG terminal in Alexandroupolis has been included in the lists of European Project of Common Interest in the energy sector, based on the EU [TEN-E](#) (Trans-European Network for Energy) rules since 2013.

Greece also jointly prepared and notified alongside with 12 member states (Austria, Belgium, Denmark, Finland, France, Italy, Netherlands, Poland, Portugal, Slovakia, Spain, Sweden) an Important Project of Common European Interest (IPCEI), called IPCEI Hy2Use. The EC approved on 21 September 2022 the IPCEI Hy2Use, to support research and innovation, first industrial deployment and construction of relevant infrastructure in the hydrogen value chain. The member states will provide up to €5.2 billion in public funding, which is expected to unlock additional €7 billion in private investments. As part of this IPCEI, 29 companies with activities in one or more member states, including small and medium-sized enterprises and start-ups, will participate in 35 projects.

Further, the development of Renewable Energy Sources (RES), including offshore wind farms, is further expected in Greece. Indicatively, a RES scheme 2021–2025 was approved (case SA.60064), aiming to incentivise electricity production from RES to contribute to the achievement of the targets set by Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources (the RED II) and Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action – Guidelines on State aid for environmental protection and energy 2014–2020. Further, the offshore wind development plan has been launched to exploit the untapped wind potential of Greek seas. In this context, Law 4964/2022 provides for operating aid in favour of undertakings operating offshore wind farms, should relevant conditions be met, and EU rules be respected.

Moreover, on 9 March 2023, the EC adopted the Temporary Crisis and Transition Framework (TCTF) to foster support measures in sectors that are key for the transition to a net-zero economy, in line with the Green Deal Industrial Plan. Accordingly, the Hellenic Republic adopted in 2023 four aid measures (ie, SA.107915 (18 December 2023), financial support (€150 million) in favour of energy intensive consumers; SA.106574 (16 May 2023), amendment to a scheme, including €600 million budget increase, to support non-household electricity consumers; SA.107303 (11 May 2023), scheme to support agricultural producers (€31 million); and SA.106710 (31 March 2023), scheme to support apple and chestnuts producers (€25 million)). Also, under the provisions of the Temporary Crisis Framework (TCF) the Hellenic Republic adopted 4 aid measures in 2022, indicatively an €800 million scheme to support non-household electricity consumers (SA.103978, 3 October 2022).

Supporting the least favoured regions in Greece is also a national priority (to reduce disparities in terms of economic well-being, income and unemployment).

The EC approved the amendment to Greece's map for granting regional aid from 1 January 2022 to 31 December 2027 within the framework of the [revised Regional aid Guidelines](#) (on 6 January 2022 approval of 2022–2027 regional aid map for Greece, on [14 July 2022](#) of its amendment to increase aid for specific territories, on 30 May 2023 adoption of EC Communication regarding a possible mid-term review of the regional aid maps). The amendment to Greece's regional aid map enables higher maximum amounts of aid to investments in certain regions, because of the decrease in the gross domestic product per capita in those regions (ie, from 40 per cent to 50 per cent of the eligible investment costs in Southern Aegean, and from 50 to 60 per cent of the eligible investment costs in Crete and West Macedonia).

Quantitatively, the total number of active Greek measures corresponded to 235 in 2021 (ie, 27 – Agriculture Block Exemption Regulation, 10 – Fisheries Block Exemption Regulation, 156 – General Block Exemption Regulation 66.4 per cent and 17 – Notified Aid, according to the latest available data (see EC's state aid Scoreboard 2022, dated 24 April 2023). In terms of state aid instruments, Greece put forward the use of 'loan/soft loan/repayable advances/interest rate subsidy' (around €2,463 million, 45.9 per cent of total state aid spending), followed by 'Direct grant' (€1,645 million, 30.6 per cent of total state aid spending) and 'Tax advantage' (around €4.76 million, 8.9 per cent of total state aid spending). Also, Greece is one of the two member states with the largest share of covid-19 state aid expenditure relative to 2021 national GDP, 2.46 per cent. The covid 19-related expenditure for Greece amounted in 2021 to €4.471.8 million (ie, 83.3 per cent of the total state aid expenditure) and in 2020 to €5.903.2 million (ie, 82.8 per cent of the total), including indicatively a grant of €120 million to Aegean Airlines, a Greek-based airline that in 2019 transported about 15 million passengers (case SA.59462) and a €110 million scheme to compensate Athens International Airport SA for the damage suffered due to the coronavirus outbreak and the travel restrictions implemented to limit the spread of the virus between 23 March and 30 June 2020 (case SA.62052).

Regarding EC investigations into Greek measures, since 2022 the EC has taken only one decision to open an in-depth investigation to assess whether certain Greek support measures in favour of ELTA are in line with EU state aid rules (case SA.57538).

Law stated - 19 March 2024

Relevant authorities

Which national authorities monitor compliance with state aid rules and have primary responsibility for dealing with the European Commission on state aid matters?

The Central State Aid Unit (CSAU) is the main authority responsible for state aid matters in Greece. CSAU is a directorate of the Ministry of Economy and Finance and was established by Law 4152/2013, paragraph B, sub-paragraphs B.2 and B.6. CSAU's main competences are the following:

- notification of aid measures by Greece to the European Commission (EC), through the State Aid Notification Interactive;
- unique contact point for state aid issues with EC and with other European and international bodies;
- coordination with the granting authorities;
- monitoring of compliance of national measures with EU state aid rules and the processing of cases under examination by the EC, in particular the recovery of incompatible aid;
- assistance with the preparation of any responses to questions raised by the EC in relation to state aid matters;
- role in shaping and formulating the national state aid policy;
- monitoring of compliance of SEIG policy, in accordance with article 106 TFEU;
- annual reporting obligation – State Aid Reporting Interactive;
- participation in the advisory bodies of DG COMP, contributing to the adoption of new rules;
- provision of training, know-how and any supporting material to decentralised state aid units (see below); and
- provision of an opinion on all drafts entailing a transfer of state resources to operators that have an economic activity.

CSAU is assisted by decentralised state aid units (DSAUs) that operate as offices within ministries and other bodies dealing with state aid issues. The main task of DSAUs is the preparation and promotion of projects for opinion or approval by the CSAU, as well as the competence for the projects that are prepared and promoted by its supervised entities (see sub-paragraph B.4, Law 4152/2013). In the event that there is no DSAU, its tasks are carried out by the granting authority on a case-by-case basis.

Also, an Interministerial Committee for State Aid meets in the case of: (1) state aid issues that have a significant impact on the national economic activity; (2) state aid cases where there are different approaches between the competent bodies and the CSAU and/or the competent bodies between them; or (3) of issues that are the subject of high-level negotiations with the competent EC bodies (see sub-paragraph B.5, Law 4152/2013).

Law stated - 19 March 2024

Relevant authorities

Which bodies are primarily in charge of granting aid and receiving aid applications?

Granting authority can be any the public body or agency that expedites a legal act based on which the state aid was granted. The granting authority prepares the draft and submits it for examination to the competent DSAU. The latter carries out a preliminary analysis on the existence of state aid, within 20 working days. Drafts (of legislative or administrative nature), that may contain direct or indirect state aid are submitted for an opinion to the CSAU, before their adoption by the competent body or the parliament (see sub-paragraph B.6, Law 4152/2013). In any event, the CSAU, in cooperation with the DSAU, coordinates the granting authorities and the state aid cases; through this process CSAU has an active role in shaping and formulating the national state aid policy.

Law stated - 19 March 2024

General procedural and substantive framework

Describe the general procedural and substantive framework.

EU state aid rules are directly applicable in Greece. There are no specific provisions (codes, statutes or guidelines) regarding the application, the granting of state aid or the enforcement of EU state aid rules. The government has wide discretion, respecting EU state aid rules, to implement the latter. EU state aid rules are also applicable in the context of arbitration proceedings or awards in Greece.

The CSAU issues clarifying cursory circulars, such as on de minimis and GBER aid (issued on 05.04.2019) that provides with the relevant procedure and checklist (see <https://minfin.gov.gr/oikonomiki-politiki/kentriki-monada-kratikon-enischyion/thesmiko-plaisio-odigies/>).

The sole exception is the recovery of aid, for which national procedural rules are provided in articles 30-35 of Law No. 5000/2022 (GG A' 226/09.12.2022).

Law stated - 19 March 2024

National legislation

Identify and describe the main national legislation implementing European state aid rules.

EU state aid rules are directly applicable in Greece. There is no specific national legislation implementing European state aid rules. National legislation/ administrative acts implement specific schemes/measures that have previously been approved as compatible with the internal market, by the EC (eg, Ministerial decision 72642 EΞ 2022, following EC decision SA.101963, COVID-19 – Loan facility to support private investment (RRF)).

The sole exception is the recovery of aid, for which national procedural rules are provided in articles 30-35 of Law 5000/2022 (GG A' 226/09.12.2022).

PROGRAMMES

National schemes

What are the most significant national schemes in place governing the application and the granting of aid, that have been approved by the Commission or that qualify for block exemptions?

The most significant Greek state aid schemes in place that have been approved by the European Commission during the past year are the following:

- SA.105295 (31 January 2023): Grants to agricultural undertakings due to the energy crisis and the increase in the cost of fertilisers – Temporary Crisis Framework (TCF);
- SA.103180 (7 February 2023): Scheme to compensate energy-intensive companies for indirect emission costs - Emission Trading System Guidelines post-2021;
- SA.105829 (5 January 2023): Aid to newspaper publishers (amendments to SA.104056) – TCF;
- SA.106574 (16 May 2023): Re-introduction of aid scheme to non-household electricity consumers up to 35 kVA, operating as bakeries or on an agricultural tariff – Temporary Crisis and Transition Framework (TCTF);
- SA.106710 (31 March 2023): Grants in the agricultural sector and in particular in the sectors of apples and chestnuts nationwide – TCTF;
- SA.107301 (16 October 2023): Financial support scheme for providers of nationwide free-to-air digital terrestrial television broadcasting – TCTF;
- SA.107303 (12 May 2023): Grants in the agricultural sector, in particular in the sectors of pears, Krokos (safran), tobacco, Corinthian raisins, asparagus and apiculture products (notably honey products) nationwide – TCTF;
- SA.107915 (19 December 2023): Support scheme for energy-intensive consumers (indicative sectors: Mining of hard coal, Extraction of crude petroleum, mining of iron ores, mining of other non-ferrous metal ores) – TCTF;
- SA.108744 (28 November 2023): Damage compensation scheme due to natural disasters (eg, earthquakes, landslides, floods) and adverse climatic events that can be assimilated to a natural disaster (eg, storms, hail, ice, windstorm, heavy or prolonged rainfall);
- SA.110037 (30 November 2023): Prolongation of interim support scheme until the establishment of a Sale and Lease Back Scheme (SLB) (borrowers will have the option to transfer their primary residence to the SLB organisation and lease it back for a period of up to 12 years, under a subsidised rental contract and with a repurchase option);
- SA.109792 (1 December 2023): Re-introduction of subsidy to companies (active in the manufacture of fur, leather and related products) affected by Russia's aggression in Ukraine and international sanctions imposed – TCTF;
-

SA.111319 (2 February 2024): Subsidy scheme to non-household electricity consumers up to 35 kVA, operating as bakeries or on an agricultural tariff (reintroduction of scheme SA.103978, as amended by SA.106574) – TCT;

- SA.60064 (24 January 2023): Renewable Energy Sources (RES) scheme 2021–2025; the measure intends to incentivise electricity production from RES to contribute to the achievement of the targets set by Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources (the RED II) and Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action- Guidelines on State aid for environmental protection and energy 2014–2020; and
- SA.64736 (5 September 2022): Scheme under Recovery and Resilience Facility to support development of electricity storage facilities.

Law stated - 19 March 2024

General Block Exemption Regulation

Are there any specific rules in place on the implementation of the General Block Exemption Regulation (GBER)?

EU state aid rules are directly applicable in Greece. There are no specific rules in place on the implementation of the GBER. The Central State Aid Unit (CSAU) issued on 5 April 2019 a cursory circular on *de minimis* and GBER aid that provides with the relevant procedure and checklist (see <https://minfin.gov.gr/wp-content/uploads/2024/01/26a8e2cd-f6b2-4acd-90bc-fc7d9fb6cef6.pdf>).

In 2021, the number of GBER measures in Greece reached 66.4 per cent of the total number of measures, with 63.4 per cent of all newly implemented measured falling under GBER.

Law stated - 19 March 2024

PUBLIC OWNERSHIP AND SERVICES OF GENERAL ECONOMIC INTEREST (SGEI)

Public undertakings, public holdings in company capital and public-private partnerships

Do state aid implications concerning public undertakings, public holdings in company capital and public-private partnerships play a significant role in your country?

In Greece, there have been, during the past 10 years, limited state aid implications involving state-owned undertakings:

- SA.57538 (10 March 2022 – active case): the EC, following a complaint, opened an in-depth investigation to assess whether certain Greek support measures in favour of ELTA are in line with EU State aid rules. ELTA is the largest provider of postal services in Greece and the postal operator entrusted with the provision of the Universal Service Obligation; ELTA's UBO is a state-owned undertaking.

- SA.28973 (last EC decision 9 August 2018): on 24 May 2011 the EC, following a complaint, decided that the system of levies on admissions to casinos, constituted incompatible unlawful state aid and ordered the recovery of the aid (Decision 2011/716/EU). Among the beneficiaries (Greek casinos) there were involved two state-owned undertakings, ie, Mont Parnès Casino (51 per cent of shares were held by the state) and Corfu Casino (public casino). Following action for annulment (T-425/11, *Greece v Commission*) and appeal (C-530/14 P, *Commission v Greece*), the EC re-examined the measure and concluded that the system of levies on admissions to casinos in Greece that existed until November 2012 does not constitute aid within the meaning of article 107(1) TFEU.
- SA.34308 (20 November 2017): several measures have been granted to the Hellenic Defence Systems (a company almost fully owned by the Greek State). The EC confirmed that most measures did not involve aid because they served Greek security interests, in accordance with the exception of article 346 TFEU; however, the EC concluded that a small proportion of the Greek measures supported the civil activities of HDS and ordered the recovery (amounting at €55 million).
- SA.34572 (27 March 2014): the EC found various public measures (in the form of capital injections and state guarantees) in favour of Larco General Mining & Metallurgical Company SA, a state-owned company. Accordingly, the EC ordered Greece to recover the incompatible state aid amounting to €135.8 million, plus interest. Owing to the non-implementation of the recovery, the EC referred Greece to the CJEU (20 January 2022, case C-51/20, *Commission v Greece*); the CJEU imposed financial penalties on Greece (ie, €4,368,000 per six months' delay in applying the measures necessary to comply with the 2017 judgment, and a lump sum €5,500 million).
- 2009/610/EC (2 July 2008): the EC requested Greece to recover more than €230 million of illegal aid from Hellenic Shipyard, following an in-depth investigation. Owing to the non-implementation of the recovery, the EC referred Greece to the CJEU. The CJEU (14.11.2018, case C-93/17, *Commission v Greece*) imposed financial penalties on Greece (ie, a periodic penalty payment of approximately €7.3 million for each six-month period from the date of delivery of the judgment until the date of compliance with the decision and a lump sum of €10 million).

Law stated - 19 March 2024

SGEI

Are there any specific national rules on SGEI? Is the concept of SGEI well developed in your jurisdiction?

Under article 7 of Law 4413/2016 on the award and performance of concession contracts – harmonisation with Directive 2014/23/EU of the European Parliament and of the council of 26 February 2014 on the award of concession contracts, the state (by virtue of legislative, regulatory or administrative provisions) may define, in accordance with EU law, which services are SGEI, how these services should be organised and financed, in accordance with the rules on state aid, and to which special obligations should be subject, in accordance with the legislation in force.

Further, several provisions make references to SGEI, for the purpose of a specific sector or service. For example, articles 55 and 58B of Law 4001/2011 provide for the supply of electricity to consumers not interconnected with the mainland, by any electricity supplier, a Public Service Obligation (PSO) of General Economic Interest. This provision has been taken into consideration by the EC, in decision SA.32060, approving the compensation for providing the PSO of supplying electricity on the non-interconnected islands at the same prices with the interconnected system.

According to the latest available data/report on the application of the SGEI decision (see https://competition-policy.ec.europa.eu/state-aid/legislation/sgei_en), in 2021 the Hellenic Republic granted compensation amounting to €35,839 million on the basis of the SGEI Decision and €17,508 million on the basis of the SGEI Framework. Few Greek cases apply the criteria of the *Altmark* judgment; indicatively, regarding 2021, the Hellenic Republic reported only one relevant case (ie, the conclusion of contracts, following a tender) for the assignment of public service with regard to barren route lines (ferry and air connections).

Law stated - 19 March 2024

CONSIDERATIONS FOR AID RECIPIENTS

Legal right to state aid

Is there a legal right for businesses to obtain state aid or is the granting of aid completely within the authorities' discretion?

Businesses in Greece do not have any legal right to obtain state aid. The granting of aid is at the discretion of the competent authority; however, this discretion is limited given that the authorities follow the conditions of the specific scheme/measure, designed in accordance with EU state aid rules and regulations. For example, scheme SA.105095/ SA.101963 (loan facility to support private investment) excluded medium and large enterprises that were already in difficulty – within the meaning of the General Block Exemption Regulation, the Agricultural Block Exemption Regulation or the Fisheries Block Exemption Regulation – on 31 December 2019, in accordance with the Temporary Framework for State aid measures to support the economy during the covid-19 outbreak. Therefore, if the conditions of the scheme are met and the budget is available, businesses are, in fact, 'legally entitled' to receive the relevant aid.

Law stated - 19 March 2024

Main award criteria

What are the main criteria the national authorities will consider before making an award?

The specific criteria vary in accordance with the type of the aid measure to be awarded, such as sustainability, job creation, rescue and restructuring.

Law stated - 19 March 2024

Strategic considerations and best practice

What are the main strategic considerations and best practices for successful applications for aid?

There are no specific strategic considerations or/and best practices for successful applications for aid. The candidate must meet the requirements of the state aid measure in question and respect all relevant EU state aid rules.

Law stated - 19 March 2024

Challenging refusal to grant aid

How may unsuccessful applicants challenge national authorities' refusal to grant aid?

Unsuccessful applicants can challenge national authorities' refusal to grant aid before administrative courts. Article 1 paragraph 4, point f of Law 1406/1983 as in force, provides for the competence of administrative courts for disputes arising from the issuance of acts or sanctions that concern EU or national awards, subsidies or similar financial benefits.

Further, civil courts may also be competent in case the aid was granted through a contract between the beneficiary and authority, under the provisions of private law (eg, decision of Athens Court of Appeals No. 699/9 February 2023 on the basis of an electricity sale and purchase agreement). Also, civil courts are competent for damage actions filed by a competitor of a beneficiary, requesting compensation for damages resulting from the granting of unlawful aid.

Law stated - 19 March 2024

Involvement in EU investigation and notification process

To what extent is the aid recipient involved in the EU investigation and notification process?

In principle, the aid recipient is not involved in the EU investigation and notification process. Said procedures involve only the EC/DG COMP and the national authorities through Greece's Permanent Representation.

In fact, beneficiaries do assist rather actively the competent national authorities; either in case of an investigation or of a notification (eg, drafting responses to the DG COMP). In such a case, the aid recipient may have full access to the case file and attend meetings.

Law stated - 19 March 2024

STRATEGIC CONSIDERATIONS FOR COMPETITORS

Complaints about state aid

To which national bodies should competitors address complaints about state aid? Do these bodies have enforcement powers, and do they cooperate with authorities in other member states?

At a national level, other than courts, there is no specific national body where competitors of state aid beneficiaries may address complaints about state aid. Thus, apart from the EC and the competent national courts, there is no national body to complain to. In this context, for example, on 23 April 2019, the EC received directly a complaint concerning the granting of alleged unlawful state aid to ETVA Industrial Areas SA (see case SA.54321 – EC decided that relevant measures did not constitute state aid within the meaning of article 107 TFEU).

Law stated - 19 March 2024

Dealing with illegal or incompatible aid

How can competitors find out about possible illegal or incompatible aid from official sources? What publicity is given to the granting of aid?

Decentralised State Aid Units (DSAUs) gather information on all state aid expenditure to comply with the reporting obligation imposed by Regulation 794/2004. Central State Aid Units (CSAUs), then, transmit these data to the European Commission for publication in the annual state aid scoreboard and on the Eurostat’s website.

Information is also published in the Transparency Award Module (TAM), which is an EC online system that places in the public domain certain awards of [state aid](#) and gives access to state aid individual award data provided by member states in compliance with the European transparency requirements for state aid. According to article 32 of Law 5000/2022 (GG A’ 226/09.12.2022), which refers to the transparency obligation when granting state aid, information published in the TAM includes, inter alia, information on the identity of the beneficiary, its sector of activity and the form and amount of aid. The granting authorities provide this information to the CSAUs, which then report it to TAM and, upon the CSAU’s approval, it is then published to the TAM.

Moreover, pursuant to article 27 of Law 5000/2022 in conjunction with the Joint Ministerial Decision No. 189794 2022/23-12-2022, entitled: ‘Operation of the Central Information System of State Aid of Law 5000/2022, issued pursuant to the enabling provision of paragraph 2 of article 33 of Law 5000/2022, the Central Information System of State Aid is the online system for: (1) the recording, processing and monitoring of state aid granted at national, regional or local level, irrespective of the source of funding, national or Union; and (2) the export of reports and statistics on state aid granted.

Law stated - 19 March 2024

Dealing with illegal or incompatible aid

Give details of any legislation that gives competitors access to documents on state aid granted to beneficiaries.

The Code of Administrative Procedure (Law 2690/1999 as in force) provides for the right to access public documents. On this basis, competitors may access public documents, unless these documents contain private or confidential information.

Law stated - 19 March 2024

Dealing with illegal or incompatible aid

What other publicly available sources can help competitors obtain information about possible illegal or incompatible aid?

Many companies are obliged to publish their annual financial results, which can provide useful information on possible aid they may have received. The Greek business register is called the [General Electronic Commercial Registry](#). It is governed by Law No. 3419/2005. It records all disclosures of business documents and information and is available online.

Law stated - 19 March 2024

Other ways to counter illegal or incompatible aid

Apart from complaints to the national authorities and petitions to national and EU courts, how else may complainants counter illegal or incompatible aid?

There is no such precedent in Greece.

Law stated - 19 March 2024

PRIVATE ENFORCEMENT IN NATIONAL COURTS

Relevant courts and standing

Which courts will hear private complaints against the award of state aid? Who has standing to bring an action?

Private complaints against the award of state aid will be heard by the competent courts. Pursuant to article 1 paragraph 4, point of Law 1406/1983 as in force, the administrative courts have jurisdiction over disputes that follow from the issuance of acts, which relate to the award of European or national aid, subsidies and similar financial benefits, as well as the acts that impose a relevant measure or sanction. State aid cases are introduced (as administrative substantive disputes) before the Greek administrative courts of first instance, whose decisions can then be appealed before the administrative courts of appeal, where the total amount of the dispute exceeds €5,000, within 60 days of the date on which the decision of the court is served to the parties. Decisions of administrative courts of appeal may be appealed only on points of law before the Council of State, which is Greece's Supreme Administrative Court.

Last, in case aid is granted via a contract between the beneficiary and an administrative body under private law provisions, the competent courts to examine the case are the civil courts.

As regards who has legal standing to bring an action, there is no specific national rule, rather the affected parties, such as competitors of the beneficiary, may bring an action before the competent court based on EU state aid law, which applies directly.

Law stated - 19 March 2024

Available grounds

What are the available grounds for bringing a private enforcement action?

There are many available grounds for bringing a private enforcement action, such as article 108(3) TFEU directly, or tort provisions.

According to the latest available data, 12 cases of private enforcement of state aid rules have taken place in Greece during 2007–2018.

Law stated - 19 March 2024

Defence of an action

Who defends an action challenging the legality of state aid? How may defendants defeat a challenge?

The state will defend the aid measure that is challenged before administrative courts, whereas the state or the beneficiary may defend the aid measure before civil courts.

Law stated - 19 March 2024

Compliance with EU law

Have the national courts been petitioned to enforce compliance with EU state aid rules or the standstill obligation under article 108(3) TFEU? Does an action by a competitor have suspensory effect? What is the national courts' track record for enforcement?

National courts have been petitioned to enforce compliance with EU state aid rules or the standstill obligation under article 108(3) TFEU, directly or indirectly, although this is not frequent (eg, decision of Supreme Administrative Court of Greece No. 1309/2021, in relation to EC decision 2008/723/EC. In this case, where aid recovery has been ordered, the Supreme Administrative Court underlined that the beneficiaries cannot rely on the principle of legitimate expectations or good administration as per the notification of the measure to the EC).

An action by a competitor does not have a suspensory effect, but the competitor may request the suspension or the provisional recovery of the aid granted despite the standstill obligation.

Law stated - 19 March 2024

Referral by national courts to European Commission

Is there a mechanism under your jurisdiction's rules of procedure that allows national courts to refer a question on state aid to the Commission and to stay proceedings?

Greek courts can apply directly article 29 of Council Regulation (EU) 2015/1589 of 13.07.2015 laying down detailed rules for the application of article 108 of the TFEU (OJ L 248, 24.09.2015, p. 9), (Procedural Regulation) and in accordance with the provisions of Commission Notice on the enforcement of state aid rules by national courts (2021/C 305/01) paragraphs 120–126 providing for the *amicus curiae* conditions in state aid matters. The European Commission (EC) may submit written or oral *amicus curiae* observations to national courts applying state aid rules. The EC submits *amicus curiae* observations either on its own initiative or under request by national courts or the parties to a case pending before a national court. In any event, the decision to intervene as *amicus curiae* in a case before a national court is an exclusive prerogative of the EC and falls entirely within its discretion.

In this context and under these provisions, Greek courts can ask the EC: (1) to transmit to them relevant information in its possession (whether a procedure is ongoing, whether a decision has been taken, data, statistics, etc); and (2) for an opinion concerning the application of EU state aid rules (on all economic, factual or legal matters arising in the context of the national proceedings).

Even though national courts can stay proceedings while waiting for the EC's opinion, they remain under the obligation to protect individual rights under article 108(3) TFEU, which can include interim measures.

The Athens Court of First Instance requested the Commission's opinion in the *Hellenic Shipyards* case (SA15526, EC decision 2 July 2008, confirmed by the General Court in Cases T-384/98, T-391/08 and by the CJEU in Case C-246/12 P), which the Commission provided on 29 July 2009.

The *amicus curiae* provisions are applied without prejudice to article 267 TFEU, based on which the national court may ask the CJEU for a preliminary ruling regarding the interpretation or the validity of EU law. Greek courts have made use of this article on a limited basis: see for example cases C-690/13, *Trapeza Eurobank Ergasias AE v Agrotiki Trapezaitis Ellados AE (ATE) and Pavlos Sidiropoulos*; C-134/91, *Kerafina-Keramische v Greece*; and C-106/87, *Asteris and Others v Greece and EEC*.

Law stated - 19 March 2024

Burden of proof

Which party bears the burden of proof? How easy is it to discharge?

The claimant bears the burden of proof, under article 145 of the Greek Code of Administrative Procedure and shall establish the existence of aid as well as provide evidence to support its claim.

Law stated - 19 March 2024

Deutsche Lufthansa scenario

Should a competitor bring state aid proceedings to a national court when the Commission is already investigating the case? Do the national courts fully comply with the Deutsche Lufthansa case law? What is the added value of such a 'second track', namely an additional court procedure next to the complaint at the Commission?

National courts are obliged to take into account the preliminary assessment of the EC in its decision to open a formal investigation, pursuant to the CJEU's judgment in case C-284/12, *Deutsche Lufthansa*.

Law stated - 19 March 2024

Economic evidence

What is the role of economic evidence in the decision-making process?

Economic evidence can play a vital role in the decision-making process, especially when it comes to the Market Economy Operator Principle (ie, assessment of whether the state acted as a private market operator).

Law stated - 19 March 2024

Time frame

What is the usual time frame for court proceedings at first instance and on appeal?

The time frame for court proceedings in Greece is rather long, both at first instance and on appeal. For example, the decision of the Supreme Administrative Court of 13 September 2021, No. 1309/2021, concerns the annulment of decision of 2017 of the Athens Administrative Court of Appeal No. 1804/2017, which rejected an administrative appeal of 18 July 2015 and concerned the recovery of illegal state aid (formation of a special tax-free reserve) granted on 2003, following EC decision 2008/723/EC.

Law stated - 19 March 2024

Interim relief

What are the conditions and procedures for grant of interim relief against unlawfully granted aid?

Should a competitor believe there are grounds for interim relief, then it should bring state aid proceedings before a national court when the European Commission is already investigating the case. However, granting interim relief is based on strict legal criteria (joined cases C-143/88 and C-92/89, *Zuckerfabrik Süderdithmarschen a.o.*; case C-465/93, *Atlanta a.o.*).

Law stated - 19 March 2024

Legal consequence of illegal aid

What are the legal consequences if a national court establishes the presence of illegal aid? What happens in case of (illegal) state guarantees?

Greek courts, in accordance with EU rules and the Commission Notice on the enforcement of state aid rules by national courts (2021/C 305/01) have the responsibility to offer effective legal protection to third parties. Their contribution to the state aid control system is especially necessary in cases where unlawful aid is granted, in the absence of a final decision of the EC on the same measure or until the adoption of such decision, as well as in cases where possibly compatible aid has been granted in violation of the standstill obligation. The assessment of compatibility of an aid measure with the internal market is an exclusive competence of the European Commission.

If a national court establishes the presence of illegal aid, the legal consequences (suspension of the grant of aid, etc) will depend on the applicant's request. In principle, according to EU case law, the measures adopted by the national courts must make it possible to revert the situation to the circumstances existing prior to the granting of the aid.

Based on case C-275/10, *Residex*, it follows that national courts may choose which is the appropriate and proportionate means under the specific circumstances of the case at hand to achieve the purpose of restoring the competitive situation existing prior to the granting of the aid. Thus, national courts may cancel a state guarantee should they consider it constitutes unlawful aid.

Law stated - 19 March 2024

Damages

What are the conditions for competitors to obtain damages for award of unlawful state aid or a breach of the standstill obligation in article 108(3) TFEU? Can competitors claim damages from the state or the beneficiary? How do national courts calculate damages?

National courts are competent to deal with damages claims by competitors, third parties or beneficiaries against the authority that granted the aid.

Competitors can claim damages from the state under national liability law (ie, the Greek state and its organs can also be held liable for fault or negligence under articles 104 to 106 of the Introductory Law to the Greek Civil Code). Before administrative courts, the general procedural rules are described in articles 71 to 78 of the Code of Administrative Procedure.

According also to the Commission Notice on the enforcement of state aid rules by national courts, national courts may also be required to adjudicate on claims for compensation for damages caused to third parties by unlawful state aid, as part of their role under article 108(3) TFEU. If successful, such claims provide the claimants with direct financial compensation for the loss suffered.

The Court of Justice has repeatedly held that affected third parties can bring such actions for compensation for damages before national courts, in accordance with national law,

which should comply with the principles of equivalence and effectiveness (judgments of the Court of Justice, 12 February 2008, case C-199/06, *CELF et ministre de la Culture et de la Communication*, paragraph 55; 5 October 2006, case C-368/04, *Transalpine Ölleitung in Österreich*, paragraph 56).

In addition, based on the *Francovich* and *Brasserie du Pêcheur* case-law of the Court of Justice, member states are required to compensate for loss and damage caused to individuals as a result of breaches of EU law for which the state is responsible. Such liability exists where the following requirements are met: (1) the rule of law infringed is intended to confer rights on individuals; (2) the breach is sufficiently serious; and (3) there is a direct causal link between the breach of the member state's obligation and the damage suffered by the injured parties.

Moreover, the Court of Justice recalled that state aid is fundamentally different in its legal nature from damages that national authorities may be ordered to pay to individuals in compensation for the damage they have caused (C-106/87, *Asteris and Others v Greece and EEC*). However, when ruling on the compensation to third parties for the costs incurred as a direct result of an unlawful aid, national courts must be careful not to adopt decisions having the effect of granting an aid or enlarging the circle of beneficiaries.

Law stated - 19 March 2024

STATE ACTIONS TO RECOVER INCOMPATIBLE AID

Relevant legislation

What is the relevant legislation for the recovery of incompatible aid and who enforces it?

There are no specific provisions on the application or enforcement of EU state aid rules, other than the procedural rules for the recovery of aid, which are laid down in article 30-35 of Law 5000/2022 (GG A' 226/09.12.2022).

According to the said rules, the national authority competent for seeking the recovery of unlawful and incompatible aid following a relevant decision of the European Commission (EC) or the Court of Justice of the EU is the authority that granted the aid. The granting authority is also responsible for defining the undertakings that received the illegal aid (beneficiaries) as well as the amount of aid to be recovered. In addition, if the granting authority is a directorate or supervised body of the Ministry of Finance, the competent authority for seeking the recovery of unlawful aid and for enforcing the recovery procedure of article 30 and 31 of Law 5000/2022 is the decentralised state aid unit (DSAU) of the Ministry of Finance.

Article 31 of Law 5000/2022 sets out that the Central State Aid Unit (CSAU) determines and coordinates the actions of the competent DSAU, the granting authority and any other body involved as the case may be, for the implementation of the recovery decision, in accordance with article 16 of the Procedural Regulation. The article further describes the tasks of the CSAU, the granting authority and the DSAU in detail.

Law stated - 19 March 2024

Legal basis for recovery

What is the legal basis for recovery? Are there any grounds for recovery that are purely based on national law?

The legal basis for recovery is primarily the European Commission's decision that declares aid to be unlawful and incompatible and orders recovery by the state. If there is aid unlawfully granted and the European Commission has not adopted any decision, the legal basis for recovery is article 108(3) TFEU. Last, occasionally, the granting of aid may be conditional upon meeting certain requirements, such as the fulfillment of environmental objectives, and non-compliance with these requirements may lead to the granting authority seeking recovery of the aid.

Law stated - 19 March 2024

Commission-instigated infringement procedures

Has the Commission ever opened infringement procedures before the CJEU because of non-recovery of aid under article 108(2) TFEU?

Under article 108(2) TFEU, if a member state fails to comply with the EC's decision finding aid to be unlawful within the prescribed time, the EC or any other interested state may, in derogation from the provisions of articles 258 (infringement procedure) and 259 TFEU, refer the matter to the Court of Justice of the European Union direct. This has been the case for Greece on numerous occasions; we refer indicatively to the following cases:

- Case C-11/20: By its judgment of 12 May 2021, the European Court of Justice ruled that Greece had breached its obligations by failing to comply with an EC decision and to recover unlawful aid paid to farmers due to adverse weather conditions.
- Case C-51/20: Greece was ordered to make a lump sum payment of €5.5 million and periodic penalty payments of over €4 million for every six months' delay for failure to recover state aid granted to Larco. By its judgment of 20 January 2022, the Court found that Greece had breached its obligation to take all necessary measures to implement the 2017 decision by 25 March 2019 as well as that the infringement continued to exist at the time the facts of the case were examined by the Court.
- Case C-93/17: In its judgment of 14 November 2018 regarding failure to recover state aid granted to Ellinika Nafpigeia, the CJEU declared, first, that on the date of the expiry of the period prescribed by the Commission in its letter of formal notice of 2014 (that is, 27 January 2015), Greece had failed to fulfil its obligation to take all the measures necessary to comply with the judgment of 2012 and, second, that the failure to fulfil obligations persisted until the examination of the facts by the Court. Thus, the Court considers it necessary to impose financial penalties in the form of a six-monthly penalty payment imposed to ensure compliance with the judgment of 2012 and to enable the Commission to determine the progress of the measures implementing the judgment of 2012 and a lump sum as a dissuasive measure.

Law stated - 19 March 2024

Implementation of recovery

How is recovery implemented?

The procedure for the implementation of the recovery decision is described in detail in article 31 of Law 5000/2022 (GG A' 226/09.12.2022). The CSAU determines and coordinates the actions of the competent DSAU, the granting authority and any other body involved as the case may be, for the implementation of the recovery decision, in accordance with article 16 of the Procedural Regulation. The granting authority issues an administrative act, where the beneficiaries and the amount to be recovered are determined. The article further describes the tasks of the CSAU, the granting authority and the DSAU in detail.

Basically, the recovery procedure is initiated by the relevant administration in the same way as the state would proceed to obtain the repayment of any other debt. If the aid beneficiary does not obey the order, the public authorities must go to court to enforce the recovery order.

Law stated - 19 March 2024

Article 108(3) TFEU

Can a public body rely on article 108(3) TFEU?

Given that EU law supersedes national law, national courts shall set aside contractual provisions that constitute the contractual basis for granting the aid. This means that a public body may rely on article 108(3) TFEU, even if this means that it escapes its contractual obligations by relying on its own fault. However, the public body may be liable for damages it may have caused due to the fact that it is not complying with the EU notification and standstill obligations.

Law stated - 19 March 2024

Defence against recovery order

On which grounds can a beneficiary defend itself against a recovery order? How may beneficiaries of aid challenge recovery actions by the state?

A beneficiary may defend itself against a recovery order on the basis of absolute impossibility to recover incompatible state aid, in accordance with Commission Notice on the recovery of unlawful and incompatible state aid (2019/C 247/01). The fact that an undertaking is in financial difficulties or even insolvent does not constitute proof that recovery is impossible, unless it has been liquidated and no assets are recoverable. In addition, the aid is impossible to recover where the beneficiary has already ceased to exist, without any legal and economic successor.

The administrative act issued by the granting authority seeking recovery of unlawful aid can be based directly on the negative Commission decision. The beneficiary of the aid can contest the recovery order by bringing an action for annulment before an administrative court. To date, there have been only a few direct actions brought by beneficiaries of state aid against recovery orders.

Law stated - 19 March 2024

Interim relief against recovery order

Is there a possibility to obtain interim relief against a recovery order? How may aid recipients receive damages for recovery of incompatible aid?

There is a possibility to obtain interim relief and suspend a recovery order, under the conditions set out by the EU courts and the applicable Greek legislation due to urgency and risk of irreparable damage.

Aid recipients can claim damages from the state under national liability law (ie, the Greek state and its organs can also be held liable for fault or negligence under articles 104 to 106 of the Introductory Law to the Greek Civil Code). Before administrative courts, the general procedural rules are described in articles 71 to 78 of the Code of Administrative Procedure.

Law stated - 19 March 2024

UPDATE AND TRENDS

Key developments of the past year

Are there any emerging trends or hot topics relating to state aid control in your jurisdiction? What are the priorities of the national authorities? Are there any current proposals to change the legislation? Are there any recent important cases in the field of fiscal aid (taxes), infrastructure, or energy? Any sector enquiries?

Energy and sustainability are currently among the policy priorities of Greece

Greece aims to promote the EU' strategic objectives relating to the EU Green Deal. Greece's Recovery and Resilience Plan includes an integrated and coherent set of reforms and investments structured in four pillars, (ie, green transition, including sustainable use of resources, climate resilience and environmental protection), digital transformation, employment, skills and social cohesion and private investments and transformation of the economy (see <https://greece20.gov.gr/en/pillars-and-components/>). In this context, for example, a scheme has been designed, providing for aid under Recovery and Resilience Facility to support development of electricity storage facilities (estimated budget €341 million); this measure was aimed at allowing a smooth integration in the Greek electricity system of an increasing share of renewable energy coming from wind and solar sources (see SA.64736, 5 September 2022).

The security and diversification of energy supplies in Greece is of high importance. In this context, the European Commission (EC) approved (SA.105781, 29 September 2023) a €106 million Greek measure to support the completion of the construction of the liquefied natural gas (LNG) terminal in Alexandroupolis; a measure that complemented the public support that was previously approved by the EC (SA.55526, 17 June 2021). Given its strategic importance for the diversification of natural gas supplies into the southeastern European region, the LNG terminal in Alexandroupolis has been included in the lists of European Project of Common

Interest in the energy sector, based on the EU [TEN-E](#) (Trans-European Network for Energy) rules since 2013.

Greece also jointly prepared and notified alongside with 12 member states (Austria, Belgium, Denmark, Finland, France, Italy, Netherlands, Poland, Portugal, Slovakia, Spain and Sweden) an Important Project of Common European Interest (IPCEI), called IPCEI Hy2Use. The EC approved on 21 September 2022 the IPCEI Hy2Use, to support research and innovation, first industrial deployment and construction of relevant infrastructure in the hydrogen value chain. The member states will provide up to €5.2 billion in public funding, which is expected to unlock additional €7 billion in private investments. As part of this IPCEI, 29 companies with activities in one or more member states, including small and medium-sized enterprises and start-ups, will participate in 35 projects.

Further, the development of Renewable Energy Sources (RES), including offshore wind farms, is further expected in Greece. Indicatively, a RES scheme 2021–2025 was approved (case SA.60064), aiming to incentivise electricity production from RES to contribute to the achievement of the targets set by Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources (the RED II) and Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action – Guidelines on State aid for environmental protection and energy 2014–2020. Further, the offshore wind development plan has been launched to exploit the untapped wind potential of Greek seas. In this context, Law 4964/2022 provides for operating aid in favour of undertakings operating offshore wind farms, should relevant conditions be met, and EU rules be respected.

Moreover, on 9 March 2023, the EC adopted the Temporary Crisis and Transition Framework (TCTF) to foster support measures in sectors that are key for the transition to a net-zero economy, in line with the Green Deal Industrial Plan. Accordingly, the Hellenic Republic adopted in 2023 four aid measures (ie, SA.107915 (18 December 2023), financial support (€150 million) in favour of energy intensive consumers; SA.106574 (16 May 2023), amendment to a scheme, including €600 million budget increase, to support non-household electricity consumers; SA.107303 (11 May 2023), scheme to support agricultural producers (€31 million); and SA.106710 (31 March 2023), scheme to support apple and chestnuts producers (€25 million)). Also, under the provisions of the Temporary Crisis Framework (TCF) the Hellenic Republic adopted four aid measures in 2022, indicatively an €800 million scheme to support non-household electricity consumers (SA.103978, 3 October 2022).

Supporting the least favoured regions in Greece is also a national priority (to reduce disparities in terms of economic well-being, income and unemployment)

The EC approved the amendment to Greece’s map for granting regional aid from 1 January 2022 to 31 December 2027 within the framework of the [revised Regional aid Guidelines](#) (on 6 January 2022 approval of 2022–2027 regional aid map for Greece, on [14 July 2022](#) of its amendment to increase aid for specific territories, on 30 May 2023 adoption of EC Communication regarding a possible mid-term review of the regional aid maps). The amendment to Greece’s regional aid map enables higher maximum amounts of aid to investments in certain regions, because of the decrease in the gross domestic product per capita in those regions (ie, from 40 per cent to 50 per cent of the eligible investment costs in Southern Aegean, and from 50 to 60 per cent of the eligible investment costs in Crete and West Macedonia).

