



GREEK LAW DIGEST

The Ultimate Legal Guide to Investing in Greece

Kelemenis & Co.

TOURISM



NOMIKI BIBLIOTHIKI



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TOURISM

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Partner at **Kelemenis & Co.**

What is the licensing procedure for the establishment of hotels?

The procedure that needs to be followed for the issue of a hotel license in Greece includes six stages:

- issue of a preliminary environmental approval. This approval is required only for territories outside town planning zones and is issued by the Regional Directorates of Urban Planning, unless another authority is competent, depending on the area where the hotel will be established;
- approval of the suitability of the plot where the hotel will be built which is issued by the Regional Directorates for Tourism;
- approval of environmental terms. Depending on the location and size of the hotel, said approval is issued by either the Regional Environmental Authorities or the Prefecture of Athens or Thessaloniki, or the Regional Directorate of Environment or the Prefectural Office of Environment;
- approval of the architectural designs by the Regional Directorates of Tourism;
- issue of a building permit by the Directorate of Urban Planning of the Prefecture or Municipality where the hotel will be located; and
- issue of the operation license by the Regional Directorates of Tourism of the Hellenic Tourism Organization (EOT).

What is the licensing procedure for the establishment of conference centers?

In order for a conference center to obtain a license, the following procedure needs to be followed:

- a study on the purpose of establishment of the conference center must be approved by the competent Directorate of EOT;
- approval of the suitability of the plot by the competent authority of EOT; with said approval EOT may require documents and approvals from various authorities (e.g. approval from the Ministry of Culture and Tourism, an opinion from the antiquities authorities etc.);
- approval of architectural designs by the Regional Directorate of Tourism;
- issue of a building permit by the competent Urban Planning Authority;
- issue of all other relevant urban planning and environmental permits/authorisations/approvals set out in urban planning and environmental legislation;
- a study, approved by the competent Urban Planning Office, with regard to the sound-proof/sound-protection and the acoustics of the room(s) must be submitted with EOT;

- the procedure for the establishment of a conference center is completed once the operation license is issued by EOT.

What is the licensing procedure for the establishment of golf courses?

The following procedure must be followed for the establishment of a golf course:

- approval of the suitability of the plot by the competent authority of EOT. Together with the application for said approval, a pre-approval regarding the location of the golf course and an approval of the environmental impact study by the Ministry of Environment must be submitted;
- approval of an architectural study by EOT in relation to which the procedure followed for hotels is applicable;
- issue of a building permit by the competent Urban Planning Authority;
- issue of an operation license by EOT.

What are the technical compliance standards that govern hotels regarding fire safety?

The key provisions on fire protection and fire safety standards are prescribed in Presidential Decree 71/1988 "Regulation on the Fire Protection of Buildings" (Fire Regulation), as interpreted by Ordinance No 39112 F.701.2/12.10.1998 of the Fire Brigade Headquarters "On Codification of Clarifying Ordinances issued by the Fire Brigade Headquarters on the Application of Presidential Decree 71/1988" and various other Ordinances of the Fire Brigade Headquarters, as in force. Before the Fire Regulation entered into force, the fire protection of hotels was regulated by Ordinance 2/1979 of the Fire Brigade Headquarters "On the basic measures of fire protection in hotels", which may still be applicable on hotels which have received their fire certificate under this Ordinance. According to the Fire Regulation, as amended and in force, hotels are divided into the following two categories:

- "New Hotels", i.e. hotels whose building permit was issued after 24.10.2006, and
- "Existing Hotels", i.e. hotels which had already been constructed or had been in operation by 24.10.2006.

The Fire Regulation's provisions refer to the following issues:

- escape routes in case of fire, i.e. stairways and emergency exits;
- passive fire protection, i.e. the terms of structural formation of a building which may ensure its fire protection by preventing either the beginning or the spreading of fire in the building; for instance, the fire resistance index of structural material of the building, the division of a building into fire departments etc;
- active fire protection, i.e. the measures to be taken by the hotel against fire; for instance, fire alarm systems, fire-detection systems, fire-extinguishing systems;
- various other measures such as the training of employees to react accordingly in case of fire, the hanging of signs showing the ground plan of the hotel and/or information on the orientation of the building etc.

The Fire Regulation includes similar rules also for shops, meeting rooms and parking areas which are located within hotels. A Certificate of Fire Protection must be issued by the competent Department of the Fire Brigade. Although this Certificate is necessary for the operation of all hotels, different provisions may be applicable for New and Existing Hotels.

What is the nature of allotment contracts? What are the main rights and obligations of the contracting parties?

Decision 503007/29.11.1976 of the General Registrar of EOT (Contracts Regulation) regulates the relationships between (a) hoteliers and individual clients and (b) hoteliers and travel agents. The Contracts Regulation has been formally ratified by article 8 of statute 1652/1986. According to article 5 of said statute, any issue regarding allotment contracts that is not specifically set out in the Contracts Regulation, is governed by the general provisions of the Greek Civil Code.

Allotment contracts, i.e. contracts entered into between hoteliers and travel agents or groups for the booking of a number of beds for a specific period, must at least contain the following provisions:

- the agreed price for an overnight stay, the price for a bed & breakfast (BB) stay, the price for a half-board (HB) stay and the price for an all-inclusive (AI) stay;
- the type of rooms (single, twin etc.), the exact duration of the allotment and the agreed maximum and minimum allotment for every month;
- the agreed breakfasts and double-dot meals must be offered at a price and according to the standards of the applicable market rules;
- hotels within the premises of which no restaurants or canteens operate may not conclude allotment contracts on a BB, HB or AI basis;
- restaurants and canteens within the hotel's premises may not be leased or subleased to persons other than those running the hotel business meaning that the responsibility for the operation of the business must cover all departments of the hotel unit.

The hotelier may request a down-payment of 25% of the entire amount payable by the counterparty on the basis of the allotment contract. In case the hotelier breaches the agreement, he/she/it is under an obligation to immediately refund the down-payment plus interest. Such breach of the hotelier may also result in administrative penalties being imposed on him/her/it by EOT. In case the travel agent does not cover the minimum allotment in a month, the hotelier is entitled to compensation which is calculated on the basis of the agreed price for a one-night stay and amounts to half of the minimum uncovered balance of the allotment.

With regard to cancellations, a travel agent may cancel part or all of the agreed allotment without bearing an obligation to compensate the hotelier if the hotelier is notified of such cancellation at least 21 days prior to the agreed arrival of the guests (release period). Nonetheless, with its decision 38/1997 the Supreme Court has ruled that in case the travel agency does not cover the minimum allotment, it must compensate the hotelier for half of the minimum uncovered balance of the allotment, regardless of whether it has notified the hotelier 21 days prior to the agreed arrival of the guests. The hotelier also has the right to be released 21 days prior to the agreed arrival in relation to bookings for which he/she/it has received no confirmation by either a voucher or a rooming list. If the travel agent makes use of its cancellation right, pursuant to the above, during the low season, the hotelier has the right to proportionally limit the allotment of beds during the high season without, nonetheless, falling below the minimum allotment of the relevant month.

What is the nature of guarantee (commitment) contracts?

The Contracts Regulation applies not only to allotment contracts but also to guarantee (commitment) contracts. The main difference between allotment and commitment contracts is that in the case of commitment contracts the agreement refers to a specific number of beds during a specific time period, i.e. it does not provide for a maximum and minimum number of beds. In the case of commitment contracts, if the travel agent cancels the agreement for part or all of the agreed beds, it has to pay the price for all the beds it has booked, unless it has notified the hotelier 21 days prior to the arrival of the guests (release period).

What is the nature of time-sharing contracts?

Time-sharing contracts are regulated by statute 1652/1986 "Leasing agreements and regulation of relevant issues", as it has been modified by Presidential Decrees 182/1999 and 293/2001. In the case of time-sharing contracts, the lessor undertakes the obligation to supply the lessee with the use of the accommodation for a specific period every year together with certain relevant services and the lessee undertakes to pay the agreed rent. Time-sharing contracts include elements of several types of contracts, although those of a leasing agreement prevail. This is the reason why statute 1652/1986 provides that the articles of the Civil Code regulating leasing agreements are applicable in addition to the provisions of the statute.

Time-sharing contracts may have a duration of between 3 and 60 years and must be concluded with a notarial deed which must subsequently be registered with the competent land registry. The observation of such formalities aims at protecting both the lessee and third parties who can thus gain knowledge of the long-term restrictions of such properties.

What is the legal framework of package travels?

Package travels are regulated by Presidential Decree 339/1996 "On package travel, in compliance with Directive 90/1314/EEC on package travel, package holidays and package tours". The aim of the Directive was to harmonize national legislations on package travels with regard to consumer protection. Whilst Directive 90/1314/EEC regulates the content, execution and termination of a package travel contract, it does not regulate civil liability issues that may arise thereof, for which the legislation of member states must provide. The regulation of package travel contracts by Decree 339/1996 is only fragmentary due to the fact that it almost immutably transfers the rules of Directive 90/314/EEC into the Greek legal framework, without addressing the issues that are not regulated by said directive. Thus, in order to cover legislative gaps (e.g. contractual liability) certain provisions of the Greek Civil Code are applied.

How are (a) hotels and (b) rented rooms and rented furnished apartments categorized?

Presidential Decree 43/2002 "On the classification of the main hotel accommodations according to a star rating system and relevant technical provisions" introduces a new system of classification, according to which main hotel accommodations are divided into the following categories: (a) ordinary hotels, (b) motels, (c) furnished apartments and (d) mixed type-hotels. There exist five star categories in total; hotels are ranked based on a system of compulsory standards and graded criteria. Decree 43/2002 includes rules for

both technical and functional standards so that consumers may identify the quality of both the accommodation and the available services.

According to Presidential Decree 337/2000 "On the classification of rented rooms and rented furnished apartments according to a keys system" there exist four categories according to which rented rooms and rented furnished apartments are ranked. The ranking criteria are divided into the following categories: (a) the minimum compulsory requirements regarding equipment and services for the keys-categories, (b) the minimum compulsory requirements for every key-category and (c) ranked criteria.

What is the employment status of hotel employees?

The employment regime of employees at hotels that operate for a period of up to 9 months annually (seasonal hotels) is regulated by special provisions, those being:

- article 8 of Statute 1346/1983;
- the collective labor agreements for all hotel employees;
- the codification of provisions applicable for all hotel employees; and
- statute 2112/1920 on the termination of employment contracts of employees in the private sector.

The employment contract of hotel employees is a "peculiar" contract of fixed duration. Its "peculiarity" lies in the fact that, contrary to regular fixed duration contracts, the employee has the right to be rehired and the employer is under an obligation to rehire the employee provided that the latter follows the procedure prescribed by law [i.e. gives notice to the employer by the 30th of January by email, registered mail or fax that he/she wishes to be rehired (even oral notice may be considered valid if it is standard practice)]. Moreover, the employer is under an obligation to employ the same number of employees and, more specifically, the same employees that he employed during the last period of operation of the hotel. Rehiring must take place gradually as follows:

- upon reaching 20% of hotel occupancy, 1/3 of the employees must be rehired;
- upon reaching 50% of hotel occupancy, at least 2/3 of the employees must be rehired;
- upon reaching 80% of hotel occupancy, the total number of employees must be rehired.

With regard to the end date by which all employees must be rehired, this varies depending on the location of the hotel.

With regard to severance payment, it has been under dispute whether the "dead period", i.e. the period during which the hotel is closed, should be taken into account when calculating the amount of the severance payment. This matter has been dealt with frequently by the Supreme Court, the most recent occasion being decision 305/2011, which ruled that the "dead period" should not be taken into consideration when calculating severance payment of hotel employees.

How does the new incentives law 3908/2011 apply to hotels? Under which conditions can the establishment/expansion/renovation of a hotel fall under the provisions of the above statute?

Statute 3908/2011 ("On the Support of Private Investments to promote Economic Growth, Entrepreneurship and Regional Cohesion") aims at enhancing economic growth in Greece by supporting investment plans of new and existing businesses. According to

said statute, three types of support are available, namely tax exemption, state grant and subsidization of leasing contracts.

With regard to hotels, only certain types of investment plans may be considered eligible to come under the provisions of the incentives law:

- those which relate to the establishment, expansion or renovation of an integrated hotel unit categorized as at least a three-star hotel or one to be upgraded to an at least three-star hotel;
- investments related to health tourism;
- investments relating to the conversion of traditional or national heritage buildings to hotel facilities of a category of at least three-stars;
- investments regarding the renovation of hotel facilities that operate within traditional or national heritage buildings.

In order for an investment plan relating to the establishment or expansion of a hotel unit to come under the provisions of the incentives law, the applicant must either own the property or have leased it for a period of at least 15 years. Said lease agreement must be registered with the competent land registry. The law does not make reference to renovation of hotel units; as a result, such registration does not apply to renovation works.

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