



Legal Guide for Greek Australians

By: John Tripidakis, LL.B. Athens, LL.M. London

Australian registered foreign (Greek) lawyer, entitled to practice foreign
(Greek) law only

Australia 2010

JT Law Pty Ltd - Sydney office:
Level 25/135 King str., Sydney, NSW 2000
John Tripidakis Athens office:
38 Tataki str., Glyfada, 166 75, Athens, GR

e-mail: info@greeklawyersonline.gr,
url: www.greeklawyers.com.au

AUSTRALIA (Melbourne & Sydney) TELEPHONE: 0402 751 102

	Page
Greek Inheritance	5
<i>Minimum Forced Inheritance Share in Greece</i>	8
Property Management in Greece	10
<i>Greek Parental Gifts and Gifts</i>	11
<i>Greek Australian Wills</i>	13
Greek Real Estate Property	16
<i>Buying and Selling Greek Real Estate Property</i>	18
<i>Trespassing of property in Greece - Adverse possession in Greece</i>	20
<i>Joint Ownership on Real Estate Property in Greece</i>	22
<i>Greek Leasing Agreements</i>	24
<i>Greek Business Leases</i>	26
<i>Ktimatologio Land Registration in Greece</i>	28
<i>Real Property Burdens and Encumbrances</i>	31
<i>Buyer's Real Estate Rights</i>	33
<i>Purchase of Property in Border Territories</i>	34
Property Taxation in Greece	35
<i>Greek Inheritance Taxation</i>	36
<i>Greek Real Estate Conveyance Tax</i>	39
<i>Annual Real Estate Property Fee in Greece</i>	41
<i>Taxation on Parental Gifts and Gifts in Greece</i>	43
<i>Capital Gains Tax & Value Added Tax in Greece for Real Estate</i>	45
<i>Income Tax Statements in Greece</i>	47
<i>Income Taxation Procedure in Greece</i>	49
Family Law in Greece	51
<i>Divorce in Greece</i>	52
<i>Alimony in Greece</i>	54
<i>Child Support in Greece</i>	55
<i>Children Custody in Greece</i>	57
<i>Rights of a Child Born out of Wedlock in Greece</i>	59
<i>Hague Convention International Child Abduction</i>	61
<i>Property Division upon divorce in Greece</i>	63
Litigation in Greece	65
<i>Execution of foreign Judgments in Greece</i>	66
<i>European Union Regulation for the Recognition of Foreign Judgments</i>	68
<i>Judicial and Extrajudicial-Hague Convention</i>	70
Greek Citizenship – Greek Passports	71
Power of Attorney in Greece	73

Legal Guide for Greek Australians

1. Greek Inheritance

Our Greek law firm is very sensitive to the need of Greek Australians to claim their Greek inheritance. Our deep legal experience in thousands of similar cases, has led our firm to be the legal expert in clearing up Greek inheritances, even long neglected matters and/or matters contested by third parties.

As Greek Estate Lawyers, we assist in Greek inheritance issues by tracing the property title anywhere in Greece; we investigate the legal and actual status; and provide a full legal analysis report including photographs, within one week, as of the time that the client has provided the necessary information.

Specifically:

After the passing of a person, the crucial issue is who will be entitled to the Greek inheritance that the deceased has left, that is who will be called as his legal heir, according to the Greek Inheritance Law as this is determined by the relevant provisions of the Greek Civil Code.

Greek Inheritance Law provides the bequest of the deceased's property to his legal heirs in two ways: by virtue of a will or in intestacy.

In case that the deceased has left a Greek will, the bequest of the inherited property, i.e. the transfer of the property under the names of his heirs, appointed by the deceased, and to what property parts they are entitled to, is arranged according to the provisions of the Greek will. The law provides three types of Greek wills:

- The holographic will; written entirely by the hand of the testator, who writes the date of the Will, and signs same, verifying its content.
- The public will, which consists of the testator's last will and testament and is executed before a Notary Public under the presence of three witnesses.
- The secret will. The testator delivers the document to the Notary Public, stating that the document consists of his last Will and testament, under the presence of three witnesses.

Upon the death of the testator, the Greek will has to be probated before the competent Court or before the competent Embassy or Consulate, in order for the Greek Will's content to become known to anyone. Every person holding a Greek will is obliged to take care of its probate. The Greek will is probated, only if the original document can be submitted before the competent Probate Court or Consulate, regardless of its validity. Copy of a missing will, cannot be probated, even if it is a certified copy of the will or a photocopy of same.

In case that the deceased has not left a Greek will, or in case that the will has been nullified totally or partially, or in case that the will settles only a part of the deceased's Greek inheritance, the succession is settled by law (intestacy rules).

The relevant provisions of Greek Inheritance Law, determine the relatives of the deceased who will be called as his heirs. Succession in intestacy is based on the kinship with the deceased. Thus, the law has enlisted the relatives and therefore the legal heirs of the deceased in categories ("classes"). Relatives of previous classes exclude relatives of "next of kin" classes.

More specifically, according to Greek Inheritance Law, in the first class as heirs of the deceased are called his children, or their children in case that the latter have predeceased, as well as the surviving spouse of the deceased. In the second class, as heirs are called the parents and siblings of the deceased and if they have passed away before the deceased, their children and grandchildren, as well as the surviving spouse. In the third class, as heirs of the deceased are called his grandparents, as well as his surviving spouse. In case that none of the above exist, as legal heirs of the deceased (heirs of the fourth class) are called his great grandparents, as well as the surviving spouse of the deceased. Sole heir of the fifth class, the law names the surviving spouse, while, if none of the above exist, sole heir is the Greek State.

Greek Inheritance Law does not provide of a specific deadline for accepting an inheritance. On the contrary, the law provides a specific deadline for the renouncement of the Greek inheritance right on a deceased's Greek estate. This deadline expires within four (4) months upon the deceased's passing or after the Greek will's probate by the competent Court or Consulate. Said deadline expires a year after the deceased's passing or after the Will's probate, in case that the deceased's last domicile was abroad or if his heir became aware of the passing while he was residing abroad.

After the passing of the above deadlines for renouncement, it is conferred that the heir has accepted the estate and has substituted into the rights and obligations arising from the Greek Inheritance. The heir has the right to accept the Greek Estate by stating clearly that he accepts same, finalizing the Acceptance of Inheritance proceedings. However, in case that the Greek Inheritance consists of real estate property, the Acceptance of Inheritance is accomplished through the execution of an Acceptance of Inheritance Deed before a Notary Public, which has to be registered before the competent Greek Land Registry (Ypothikofilakeion) of the property's location and in some cases maybe the Greek Land Registry Cadastral (Ktimatologio) as well.

The heirs, (in intestacy or by virtue of a Will), must file an inheritance tax statement within 6 months, if Greece domiciled, or within 12 months, if they live abroad. The time limit for the submission of the tax statement in principle begins as of the passing; and/or the Greek will's probate date.

The inheritance tax obligation is subject to an assessment of the Estate's tax value in consideration of consanguinity levels to the deceased and applicable tax exemptions.

The procedure of the Probate and the Acceptance of a Greek Inheritance, may be accomplished through a Special Power of Attorney to a specialized Greek Lawyer, like our Firm.

1.1 Minimum Forced Inheritance Share in Greece

Contrary to what may apply in the common law countries, in Greece the freedom each person enjoys regarding the disposition of his/her estate is subject to significant restrictions regarding certain family members, such as his or her children, spouse and parents. According to the applicable Greek laws, a part of each decedent's estate must be distributed to the above relatives. This part is called "nomimi moira" or "minimum forced inheritance share" in Greece; this equals half of the inheritance share each of the above relatives would be entitled to, if the decedent died intestate (i.e. without leaving a will). Any contributions, however, that the decedent may have given to each of the above heirs while living, are counted against the minimum forced inheritance share in Greece that the heir will be entitled to upon the decedent's death (for instance, if the decedent, while still living, gifted to one of his children a property, the value of this property counts towards the percentage of the minimum forced inheritance share in Greece that this child is entitled to from his parent's inheritance).

The testator can disinherit his relative (child, parent, or spouse) only under very limited circumstances, such as: when the relative has committed a gravely unjust act against the testator, or has lived his life unethically, or in the case of a spouse, if a valid reason for divorce existed for which the inheriting spouse was liable. In the event that the testator disinherits one of the above relatives in his will (or bequeaths to that relative a portion of his estate that is less than the provided minimum forced inheritance share), then that heir is entitled to participate in the remaining inheritance and claim the percentage missing (to complete his minimum forced inheritance share) or the entire minimum forced inheritance share (when he has been entirely disinherited). Furthermore, in the event that the existing inheritance at the time of the testator's death is not sufficient to cover the minimum forced inheritance share in Greece, the person entitled to that share has the right to seek the revocation and/or rescission of any gifts that the testator may have given while living, in order for the heir to be satisfied from the subjects of those gifts.

The minimum forced inheritance share provisions in Greece apply in the following two cases:

A) When there is a will: in the event that the relatives (children, spouse and parents) would inherit, had the testator died intestate, and do not inherit by virtue of the will (or inherit less than the minimum forced share) and

B) Intestate (no Will): when the existing inheritance does not suffice to cover the minimum forced share, due to conveyances the decedent made while living or due to restrictions that have been placed by virtue of a will.

It is important to understand that the minimum forced inheritance share right in Greece only exists when those entitled to it would inherit, if no will exists. Therefore, for instance, the parents of the decedent do not have a claim to a minimum forced inheritance share in Greece, if the decedent had a wife and children (because if no will existed, only the wife and children would inherit, and not the parents that are only called to inherit if no children exist). Grandchildren, for instance, only have a

minimum forced inheritance share claim if their parents are disqualified from inheriting. Furthermore, for a decedent who was survived by three children and a spouse, the following apply: the intestate share of each child is $\frac{1}{4}$ of the estate, and the minimum forced share $\frac{1}{8}$ of the estate.

Finally, regarding the legal consequences of not bequeathing the minimum forced inheritance share in the event of a will, it must be noted that this constitutes the will null and void as far as the minimum forced share is concerned. This is an absolute nullity that can be raised by anyone and can even be examined "sua sponte" by the Court. The person entitled to the minimum forced inheritance share formally obtains the inherited share (in a final manner) by accepting the inheritance and finally loses it by denouncing it.

2. Property Management in Greece

Property management in Greece and will drafting are fundamental elements of our Greek law firm's work for our clientele. In addition to simple wills, we generate sophisticated schemes for property management in Greece including parental and inter-vivos gifts for significant legal and other savings.

Wills in Greece

Property Management in Greece primarily refers to wills, and under Greek law, wills can be either holographic or notarially executed/kept. Intestacy, without a will, succession is regulated according to the "next-of-kin" sequence, as follows:

- Spouse and children
- Spouse, parents and siblings
- Spouse, grandparents, their children and grandchildren
- Spouse and great-grandparents
- Spouse
- The State

Children, parents and spouses may not be disinherited by virtue of a will (as "forced share" right holders), unless for good reason, as foreseen in the law.

Inter-vivos (parental) gifts in Greece

Property management in Greece where the parental Gift includes real estate property is implemented through the execution of a Notarial Deed, by both parties (parent and child) and its subsequent registration in the competent archives of the competent Land Registry and/ or Land Registry Cadastral of the property's location.

Conveyance of Greek real estate property through a Gift, is executed through a Notarial Deed. In the absence of the notarial document, the Gift may be considered to be accomplished upon delivery of the gifted property to the grantee.

Anything related to property management in Greece, including but not limited to the procedure of Parental Gifts for Greek properties, may be accomplished through a limited Power of Attorney to a specialized Greek Lawyer, like our Firm.

2.1 Greek Parental Gifts and Gifts

One of the fundamental principles of Greek Civil and Tax Law, is the protection of the family and the supply of adequate assets to children by their parents in order to assist them towards the creation or the maintenance of their family or their financial independence, or towards the establishment or the continuance of their profession. When these principles do not exceed the standards which the relevant circumstances allow, we are talking about Greek “Parental Gifts” (goniki parohi); they are not considered as gifts and are not regulated as such by Greek law.

According to the above, the provisions for gifts in Greece do not apply for gifts in Greece from parents to children and the Notarial form is not necessary, except from parental gifts which include real estate property; Then, the execution of a Notarial Deed is necessary.

In comparison to the provisions for gifts, Greek Parental Gifts can neither be revoked nor offended as unaffectionate, even in the case that forced share rights are offended. However, in the case that the gift exceeds rationale, it is considered as a gift, for the exceeding amount.

Greek Law regulates Greek Parental Gifts favorably. However, in no way, the children have the right to demand such parental gift, through claiming the gift by court proceedings.

Notwithstanding the above, the basic distinction between Greek Parental Gifts to gifts, is their favorable tax treatment. Their treatment by the tax legislator is obviously more favorable.

In case that Greek Parental Gifts include real estate property, the conveyance is implemented through the execution of a Notarial Deed, by both parties (parent and child) and its subsequent registration in the competent archives of the competent Land Registry and/or Land Registry Cadastral of the property's location.

The conveyance of real estate property through a gift in Greece, is executed through a Notarial Deed. In the absence of the notarial document, the gift in Greece may be considered to be accomplished upon delivery of the gifted property to the grantee.

The gift in Greece may also provide for periodical benefits or “ways”, according to which the grantee is obliged to provide a specific benefit to the grantor in order to receive the gift from him.

The grantor reserves the right to revoke the gift, in case the grantee has proven to be ungrateful toward the grantor or to the grantor's spouse or to any other of his close relatives and especially, if he has not fulfilled his obligation to provide support to the grantor. The right to the revocation is extended to the grantor's heirs as well, in case that the grantee has intentionally killed the grantor or prohibited him from revoking the gift in Greece. Such revocation is only performed through a statement of the grantor to the grantee. The revocation is excluded in case that the grantor has forgiven the grantee, or if a year has passed since the time that the grantor became

aware of the reason for revocation, without proceeding with same. Finally, the revocation of the Greek Parental Gift, is prohibited when the gift has been performed due to legal or moral obligation.

The procedure of Greek Parental Gifts for Greek properties may be accomplished through a limited Power of Attorney to a specialized Greek Lawyer, like our Firm.

2.2 Greek Wills

Frequently Asked Questions

I am a (first, second or third) generation Greek of the Diaspora. I own real estate property in Greece. How can I leave this to my children?

By executing a Will including the specific property and the persons to inherit you (heirs).

I wish my spouse to live in my house in Greece (or receive the rents) through her lifetime. Can this be done?

Of course. Life Estate is a right that can be inherited.

How should such a Will be drafted?

According to Greek Law. The most common types of Wills provided by Greek Law, are the following:

Types of Greek Wills:

- Holographic Greek Will:

Written by hand and bearing the date and the signature. No expenses. It can be executed in any country. It should be delivered to a trustful person-preferably a specialized attorney- who will undertake its probation to the Greek Court (Athens Court of First Instance), right after the deceased's death.

- Public Greek Will:

Executed before a Public Notary in the presence of witnesses. Should it be executed before a Australian Public Notary, it must bear the Note APOSTILE, provided by the Hague Convention (ratified both by Australia and Greece). Here again, it must be probated by the Greek Court, right after the deceased's death.

- Secret Greek Will:

The testator delivers the document to the Notary Public, stating that the document consists of his last Will and testament

I have provided for my Greek assets through my foreign Will. Can this Will be used in Greece?

Of course. After the deceased's death, it should be probated before the Athens Court of First Instance, together with all relevant documents (certificate of death etc).

Is it the Greek Will/Law that regulates inheritance rights on my assets in Greece?

According to Greek Law, Greek Estate issues are governed by the law of the nationality that the deceased had at the time of his death. If he had both the foreign and the Greek nationality (like most Greek of the Diaspora do), then, Greek law applies.

May we note here, that Greek nationality is acquired, even if only one of the parents is Greek.

Can I exclude from my assets to be inherited in Greece my spouse or my children?

Children, parents and husband/wife cannot be excluded completely from their inheritance rights in Greece by virtue of a will, except for very specific reasons (for example life threat of the deceased). This is called a “forced share” right (“nomimi moira”).

I insist that my spouse has nothing to do with Greece and I do not wish him/her to take any percentage of my Greek assets there. I wish to leave them only to my children, so that they know their roots. Can this be arranged?

Provided that there is no impact on other protective provisions, our Greek Law Firm would probably recommend that a Parental Gift be done to the children now, with or without withholding of the Life Estate. In the first case, the owner of the Life Estate may use (or receive rents from) the property through his lifetime; Upon his death, full title will be conveyed to the children automatically, without any inheritance proceedings.

I have already executed a will. Can I draft a new one?

Of course. According to Greek Law on Wills, the latter revokes any prior will, if they are in conflict. To avoid uncertainties, it is better that there is specific revocation in the latter will of any former wills.

What happens if I do not execute a will for my property in Greece?

In case that a will is not found (intestate succession), the law arranges the line and the shares of the inheritance according to the following:

- Husband / wife and children
- Husband / wife, parents and brothers / sisters
- Husband / wife, grandparents, their children and grandchildren
- Husband / wife and great-grandparents
- Husband / wife
- The State

What is the inheritance tax in Greece that my heirs will have to pay for the property that they will inherit?

The heirs, (intestate or through a will), must file an inheritance tax statement within 6 months, if they live in Greece or 12 months, if they live abroad. The time limit for this statement begins as of the death; should there be a will, as of the date of the will's probate. The statement can be submitted either in person or through an authorized attorney.

For the assessment of the inheritance tax, the heirs are enlisted in categories according to the relation that connects them with the deceased. For each category a different progressive tax scale applies, rising from 0% up to 60%.

Can my heirs avoid Greek inheritance taxes?

We are estate tax specialists in Greece. By applying the appropriate structures and by utilizing some vehicles the law provides (such as parental gifts combined with withholding of the life estate right), inheritance tax can be minimized.

Will my heirs have any obligations over and above the inheritance taxes in Greece?

When the inheritance includes real estate in Greece, then the heir must “accept” the Estate in Greece by virtue of a Deed (Greek Title) drafted and executed before a Public Notary, which must be registered in the Land Registry (Ypothikofilakeion) of the area in Greece where the real estate is located, in the name of the heir.

Additionally it must be declared in the newly established Land Registry Cadastral (Ktimatologio) in order to perfect your Title on the Greek property. Failure to comply with the above, does not lead to ownership. The above transactions can be carried out either in person or through an attorney.

Can I leave my Greek real estate property to my heirs totally in undivided interests, or do I have to divide it first?

If the estate includes real estate in Greece and is inherited by more heirs (society of heirs) it is possible to be divided among them as it is, or if that is not possible, to be sold upon a court's judgment. The proceeds of this compulsory auction sale will be distributed between the heirs in proportion to their shares.

Finally, it must be stressed that Greek Estates, and in particular real estate situated in Greece, should not be neglected without administration. Ownership is in jeopardy, if someone takes physical possession on the real estate (adverse possession), especially if the real estate is rural or just a lot.

The procedure of the Probate and the Acceptance of an Estate in Greece, may be accomplished through a Special Power of Attorney to a specialized Greek Lawyer, like our Firm.

3. Greek Real Estate Property

Purchasing Greek Real Estate Property

As Greek Estate Lawyers, we able to:

- ensure flawless legal title to the buyer
- apply for acquisition permits, if the property is characterized as a “border area” in Greece
- undertake all relevant currency and taxation procedures
- confirm through impartial Greek appraisers the property's fair/true market value
- negotiate terms of sale
- draft and duly execute the Deed, also arranging for its proper registration with the competent Land Registries in Greece

Selling Greek Real Estate Property

As highly skilled practicing Greek lawyers, we can:

- intensively market the property through networks of realtors in Greece and key individuals.
- prepare and duly execute the deed at the client's pre-approved terms and price.
- undertake all tax and municipal Greek tax clearances.
- wire-transfer the sale proceeds to client's designated foreign or Greek bank account through our trustee account - in one day as of their collection.

Administration of Greek Real Estate Property

- Review of the clients' titles to the property; determination if the title is 100% clear (fully probated and registered; free of any liens, faults, encumbrances, claims etc.).
- Determination (with the assistance of certified professionals, civil Engineers, Bank appraisers etc.) of your Greek property's marketing / leasing potential.
- Depending on your wishes, we can list your property for rent; enter into negotiations with potential tenants; secure a solid lease agreement (which we can entirely prepare for you); monitor cash flow/income into a Greek Bank account that we can set up for you (with the possibility of your remote access to same via the Bank's web portal etc.); filing of rental income tax returns for you; wire transfer of the rental income to your designated account of choice abroad etc. etc.
- Handling of litigation or disputes (if need be), e.g. incl. eviction of tenants; renegotiation of rental price; renewal of lease agreements etc. etc.
- Tax-wise handling of your matter in the most efficient way (to minimize your eventual tax obligation) - after all, over and above being certified Athens lawyers, we are experts in taxation law and have authored / co-authored many publications on tax-related legal matters.

Development of Greek Real Estate

The best return of your Greek real estate (eg a plot, vacant or not) may sometimes lie in its development rather than its sale. Accordingly, we can locate and enter into agreements with contractors and/or other professionals for the building of your property to your wishes and specifications. Mind the very convenient vehicle of “anti-parohi” which practically results in your attaining one or more completed apartments in exchange of your plot to the contractor's disposal.

Litigation in Greece

In our over 100 years of combined relevant experience as Greek Lawyers, we have practically encountered and successfully handled all kinds of dispute or public domain litigation related to real Estate in Greece. Accordingly, we represent our clients at court efficiently in regard to any judicial matter of their properties, be that as plaintiffs or defendants.

All the above procedures for your Greek Property, may be accomplished through a limited Power of Attorney to a specialized Lawyer in Greece, like our Law Firm.

3.1 Buying and Selling Greek Real Estate Property

One of the most important sections of financial activity in Greece, is the conveyance of Greek real estate property; a section which has flourished within the last years. The procedure of Greek real estate property acquisition is quite simple. However, for safe conveyance, it is necessary for some issues concerning the property to be settled, prior to the Deed's execution.

Buying and selling Greek real estate property is implemented only by executing a Notarial Deed before a Greek Notary Public or before the Greek Consulate, for Greeks residing abroad. Buying Greek real estate property is accomplished through the registration of the Notarial Deed, before the competent Greek Land Registry (Ypothikofilakeion) and/or the Land Registry Cadastral (Greek Ktimatologio) of the property's location.

The first and indispensable legal step, before the execution of the Deed, would be to conduct a title search on the Greek real estate property to be sold, before the relevant archives of the competent Land Registry (Ypothikofilakeion) and / or the Land Registry Cadastral (Ktimatologio) of the property's location. A qualified Greek lawyer needs to conduct the title search for the Greek real estate property. Through this and through reviewing all relevant listings either under the name of the owner regarding the Greek real estate property, as depicted in the Land Registry archives or under the entries, noted under the specific property (in areas where the Land Registry Cadastral is already in effect), the absence of legal flaws is ensured, as well as the lack of registered burdens, lawsuits, seizures, mortgages imposed against the property. Against to what might be in effect in other countries, the Notary Public is not obliged to investigate the status of the property and of the facts that the parties provide him with. The Notary Public in Greece, is only responsible for the execution of the Notarial Deed, while the contracting parties (through their Greek Lawyer) are responsible for the investigation and the accuracy of the facts provided to him.

Selling Greek real estate property can be freely remitted abroad without any restrictions.

Greek law on conveyances of Greek real estate property, provides a number of restrictions to the buying of Greek real estate property in certain areas, which have been characterized as "border areas". These restrictions apply to foreigners for national security reasons. For the execution of any conveyance Deed within these areas, a permission by the National Board of Defense / Ministry of Defense is required; permission which is granted only in rare cases. The above permission is not required for people who have Greek Nationality or are descended from Greek parents. All Greek Australians are of Greek descent. An exemption from this restriction applies to citizens of the European Union, as well.

For the execution of the Conveyance Deed in Greece, a number of documents are required (i.e. issuance of tax registration number, certificate of tax clearance, certificate that there is no Inheritance / Gift tax due if the property was acquired by the seller through Inheritance or Gift, Municipal Tax clearance, copy of the building permit, in case that the building was raised later than 1983, issuance of a

topographic diagram, when plots are conveyed, etc.); additionally, the submission of the conveyance tax statement, by virtue of which the parties declare to the tax authority the payment of the imposed tax, is indispensable. The Greek Notary Public is obliged to attach to the Conveyance Deed, a copy of the submitted conveyance tax statement, as well as the receipt of payment of the conveyance tax imposition.

All the above procedures for Greek real estate property, can be accomplished through a limited Power of Attorney to a specialized Lawyer in Greece, like our Law Firm.

3.2 Trespassing of property in Greece - Adverse possession in Greece

One of the major problems that property owners, including those residing abroad, often encounter, is the trespassing of property in Greece by others claiming ownership rights. The lack of executing formal Notarial Deeds in the past and effecting conveyances of ownership rights through verbal agreements and through verbal partitions of jointly inherited properties, has resulted to many land owners, not having recorded Deeds to prove their rights. Additionally, it is often the case that people have taken advantage of the physical absence of the legal owners and raise claims on Greek properties, which have been unattended by legal owners for many years.

According to Greek real estate law, someone may acquire property in Greece not only through a Notarial Deed (purchase Deeds, Acceptance of Inheritance Deeds, Gift Deeds, etc...), duly executed and registered before the competent Greek Land Registry archives, but also through adverse possession rights ("hrisiktisia"). The law provides of two types of adverse possession in Greece: the ordinary and the extraordinary.

In order to claim "ordinary" adverse possession rights, a person has to be in possession of a Greek property for a period of more than 10 years, exercising his ownership rights in good faith by virtue of a legal title of the property. However, although the Deed by virtue of which he acquired the property is legal, there could be a legal flaw (e.g. the person who conveyed the property was not the legal owner or he was incompetent to contract and convey ownership, etc..). After the passing of 10 years of exercising adverse possession rights as owner of the Greek property, this person is legally granted ownership of the property through "ordinary" adverse possession rights.

In other cases, a person may claim extraordinary adverse possession rights. In order to acquire property through extraordinary adverse possession in Greece, a person has to claim that he is in possession of the property, exercising uninterrupted ownership rights on it, for a period of more than 20 years. Thus, without having a legal title on the Greek property proving his ownership right, a person who claims and proves that he has in his uninterrupted possession a property for a period of more than 20 years, is recognized by the Greek law as legal owner.

In most of the cases, the recognition of adverse possession in Greece is established through the filing of a lawsuit against another person who contests such ownership rights before the competent Court of First Instance of the property's location. The Court upon examining the relevant evidence and witnesses, issues its ruling, recognizing or not the adverse possession rights that the petitioner claims. The relevant ruling is then registered to the competent Greek Land Registry archives of the property's location.

In general, all properties may be subject to adverse possession in Greece. However, the law provides of particular exemptions from adverse possession such as the properties which have been designated for public, municipal or religious needs. Moreover, adverse possession in Greece cannot be exercised in properties owned by the Greek State, by monasteries and churches, as well as to the components of the main property, before being separated from it. Additionally, a co-owner may not claim adverse possession rights, against the other co-owners, unless he has specifically informed them of his intention to possess the property as the sole owner.

Protection of owners against those who claim adverse possession in Greece, can be effected either extra judicially or through Court proceedings. The legal owner has to file a lawsuit in Greece against those who claim adverse possession rights, requesting the recognition of his ownership against the squatters. The Court, upon review of the required documentation, will rule as to the actual legal owner of the property and as to whether the squatter has fulfilled the necessary conditions for claiming adverse possession (squatter's rights in Greece leading to Legal Title).

While the Civil Code has tried in good faith to regulate ownership rights in Greece on properties that have been left unattended for many years, people have taken advantage of the physical absence of the legal owners, exercising squatters' rights on Greek property. It is often the case of people who believe that their properties have been taken care of by their relatives or local acquaintances, while claims have been raised on their properties, resulting to losing them.

All the above procedures for the protection of your Greek Property against the adverse possession, can be accomplished through a limited Power of Attorney to a specialized Lawyer in Greece, like our Law Firm.

3.3 Joint Ownership on Real Estate Property in Greece

According to Greek Law, when a right belongs jointly to more than one people, there is a “society of rights”. The members of the society, i.e. the beneficiaries of the co-owned interest shares, are the share-holders. Each share consists of a separate right, which can be freely conveyed and interpreted to a respective share on the entire property (undivided interest shares). In other words, the right of society is not limited to any specific part of the joint property. A case of society of rights is the joint ownership on real estate properties in Greece.

The society of rights on real estate properties creates rights and obligations to the joint ownership in Greece, which are regulated by the Greek real estate law. With regard to the joint ownership's rights, each co-owner has the right to use freely the jointly owned property, provided that said use does not exclude the rights of the other co-owners. Therefore, each co-owner has the right to use the joint property in Greece freely, as long as the other co-owners are not prohibited from using the property. Each co-owner has also the right to convey his/her share on the joint ownership in Greece, without requiring the consent of the other co-owners.

Joint ownership in Greece, creates not only rights among the joint owners but obligations, as well. Such obligations are either specifically regulated by law or by the principle of good faith. Therefore, joint ownership in Greece involves obligations such as payment of debts arising from the joint property; expenses for its maintenance; its management; and its usage. Each co-owner is liable on these obligations up to his share on the joint property, i.e. up to the percentage on the joint owned property that he owns.

The administration of the joint real estate property in Greece, belongs to all the joint owners. The law provides that co-owners are liable to each other for any fault performed with regard to the administration of the properties. However, in cases of danger, each co-owner is allowed to take any necessary actions, without waiting for the other co-owners' consent.

Due to the common and frequent disagreements among the co-owners, it is often questioned how the management of the joint real estate property in Greece can be achieved. Therefore, Greek law provides that, due to obvious difficulty of achieving consent by all owners, the management and usage of the joint ownership in Greece can be effected upon the relevant decision of the majority of co-owners. If the decision is not taken upon the relevant agreement of all co-owners or by the majority of them, each co-owner has the right to apply to the Court in order to rule on the most appropriate way for the property's management. The Court may also appoint an administrator of the joint ownership in Greece.

Therefore, the majority of the co-owners have the primary role on the administration of the joint ownership in Greece. The majority, however, does not have the right to decide for the substantial alteration or disposal of the joint real estate property and for any costly additions on same. Furthermore, the majority can not request from the Court to rule on the above.

As already indicated, each co-owner can freely convey his/her share. However, the conveyance of the entire property can only be affected through the relevant decision of all co-owners and not just with the decision of the majority.

Each co-owner, regardless of his share on the property, can request the dissolution of the society through the partition of the joint ownership from the Greek Courts.

Greek real estate laws provide two means of distribution of the joint property; extra judicial partition and judicial. Through the extra judicial distribution, the co-owners can freely decide on their own, for the distribution of the joint ownership, defining themselves the desirable means of partition.

The competent Court in Greece for the partition of properties, is the Court of First Instance of the property's location. The Jurisdiction of the Court is defined according to the market value of the property

The Greek Court freely decides on the means of partition of the joint real estate property in Greece. It is at the Court's discretion to rule on the most appropriate means of partition, without being bound by the claims of each party. The Court will have to examine whether the "actual" partition of the property is feasible, i.e. the physical distribution of the property according to the respective share, without reducing the value of the property. In case that the above solution is not feasible (e.g. an apartment) or decreases significantly the value of each co-owner's share, the Court may order the sale of the property through a compulsory auction. The price received in the auction shall be distributed among the joint owners, in proportion of each co-owner's share.

All the above procedures for the protection of your Greek Property, can be accomplished through a limited Power of Attorney to a specialized lawyer in Greece, like our Law Firm.

3.4 Greek Leasing Agreements

Leasing agreements in Greece involves private law contract, agreed between two parties, the landlord and the tenant. Within in the Greek leasing agreement, the landlord undertakes the obligation to give the use of the property to the tenant for the period that has been agreed. On the other side, the tenant undertakes the obligation to pay the agreed exchange (rent) for the use of the property.

Greek leasing agreements for home residence and Greek leasing agreements for professional (business) use, are specifically regulated by the law, due to the social interest of these leases. These Greek leasing agreements are regulated with specific laws, in order to ensure the required security on everyday dealings and their specific regulation.

The establishment of the Greek leasing agreement is effected through the execution of a document, by virtue of which the terms of the lease are agreed or even with an oral agreement between the parties. In cases of real estate properties leases, law provides that the lease agreement should be executed under the form of a private agreement and then certified by any Greek Tax Authority.

The duration of the lease Greek leasing agreement may be agreed as definite, i.e. the duration of the lease is agreed specifically, or as indefinite. The execution of the leasing agreement under a specific form is not necessary for the validity of the contract. More specifically, in cases of leases which will be used as home residence of the tenant, the Greek leasing agreement will last for a period of no less than 3 years. The parties are free to agree for a shorter period, with a new agreement, which has to be executed in a period of six months or more after the beginning of the lease.

Greek Law on leasing agreements provides that the landlord is obliged to give the property to the tenant, proper for the agreed use, without flaws or deficiencies, for the period that the lease agreement will last. Additionally, he is obliged to keep up the property suitable for the agreed use, undertaking the responsibility to perform any necessary repairs and any works required for the maintenance of the leased property. It is specifically provided by law that taxes and burdens concerning the lease, burden the landlord, as well as any damages and expenses that will incur from the usual usage of the property; however, this can be stipulated otherwise.

The tenant undertakes the obligation to pay the agreed rent, on the agreed date, or within the usual dates and to maintain the Greek leased property in a good condition, using it for the agreed purpose. In cases of flaws and faults, the tenant has the right not to pay the rent or to request for its decrease.

The lease expires after the passing of the agreed duration of the Greek leasing agreement. Upon expiration of the Greek leasing agreement, which has been agreed for indefinite duration, the leasing agreement expires upon the termination from each of the parties. The right of termination is also on the landlord, in case that the tenant, against the landlord's protests, is not using the property properly and according to the stipulated purpose or misbehaves against the rest of the tenants.

Additionally, the landlord reserves the right of termination of the leasing agreement, in case that the tenant does not pay the agreed rent, despite the continuous protests of the landlord.

In cases that the real estate property is conveyed by the landlord to a third party, and there is a pending lease of the property, the new owner has the rights and obligations arising from the lease agreement (substitution), if the lease is proved by a document of "certain date", unless of course the parties have agreed otherwise in the lease agreement.

Despite the usual judicial procedure for the eviction of the tenant, in case that the latter delays to pay the rent and despite the landlord's protests, Greek Law provides a faster procedure, according to which (written lease agreement, written protest against the tenant, which has been served through a Court Bailiff, at least one month before the filing of the application, etc...), the quick and easy return of the property can be achieved.

All the above procedures for the protection of your Property in Greece, can be accomplished through a limited Power of Attorney to a specialized Greek Lawyer, like our Law Firm.

3.5 Greek Business Leases

Greek leasing agreements are binding legal contracts that set out the terms and conditions of the tenancy agreement between the landlord and tenant. It defines the rights and duties of each party, as well as certain aspects of the relationship between them. Greek Law provides the basic principles of the lease agreements, while there are a number of laws which regulate specific types of leases, such as the business lease. Lease contracts should be drafted by Greek Lawyers in order to get the maximum protection for their client.

Greek business leases are rental agreements concerning properties that will be used by the tenant for the practice of his professional occupation. Presidential Decree 34/1995 and law 2741/1999 regulate Greek business leases, and offer security to many professions, as specifically foreseen by the law. Thus, Greek law provides to such lease agreements additional security.

The stipulation of the Greek business lease agreement is effected through the execution of a document by virtue of which the terms of the lease are agreed or even through an oral agreement between the parties. In cases of leases of Greek real estate properties, it is provided by law that the lease agreement should be executed under the form of a private agreement and then certified by any Greek Tax Authority.

The duration of the Greek business lease agreement is determined to 12 years. However, parties may agree to a shorter duration by executing another agreement of "specific date."

Rents of Greek business leases as well as their readjustments may be freely agreed between the parties. In case that there is no agreement for the readjustment of the rent or in case that the agreed terms for its increase are invalid, the law in Greece provides for an increase to the rent in order for the rent to correspond to 6% of the annual inflation rates and is granted 2 years after the stipulation of the Greek business lease agreement.

Termination of Greek business leases, is effected for the specific reasons provided by the Presidential Decree 34/1995, mainly but not limited to:

a) termination of the lease for self home use of the property by the landlord and his family; Such termination may take place upon the expiration of the 12 year duration and in no case before the passing of three years from the beginning of the lease.

b) termination for building the leased property. Such termination can be effected after the expiration of the 12 years or after the passing of three years, from the beginning of the lease agreement. In order for this termination to be valid, copy of the building permit has to be served to the tenant.

c) termination for self business occupation;

d) termination for constructing primary residence.

e) lapse of the 12 year duration.

The termination can only be effected through the service of a written document to the tenant and comes into effect six months after the notification of his the termination to the tenant.

For the termination of the Greek business lease agreement for the above reasons, compensation is owed to the tenant for an amount equal to 12 - 30 monthly rents.

According to Greek Law on leases, for the termination of the Greek business lease upon passing of the 12 year duration, the landlord is obliged to pay as compensation to the tenant, amount equal to 24 monthly rents. Such compensation must be paid prior to the evacuation of the premises and its deliverance to the landlord.

The aforementioned compensation is not paid in the following cases: a) the tenant voluntarily evacuates the lease, b) the landlord files a lawsuit for the release of the lease within 9 months from the termination of the lease agreement. In case that such lawsuit is not filed, an extension of four months of the lease agreement is provided.

The right of terminating the Greek business lease is also given to the tenant, who may terminate the lease agreement two years after its beginning. In such a case, the tenant has to compensate the landlord by paying him an amount equal to 4 monthly rents.

All the above procedures for the protection of your property in Greece, can be accomplished through a limited Power of Attorney to a specialized Greek Lawyer, like our Law Firm.

3.6 Ktimatologio Land Registration in Greece

Pursuant to No. 9400/2007 Ruling of the Greek Minister for the Environment, the Greek government has proclaimed 107 new areas in Greece (including the broad areas of Athens and Thessaloniki and several other areas in Greece) under registration to the Hellenic National Cadastral ("Ktimatologio"). The goal of the Greek Ktimatologio is to record all existing property rights all over Greece and their holders in a unified system of legal, technical and other information. It is anticipated that in less than four years, 6, 7 million property rights will be registered, covering 2/3 of the country's population. The new areas' cadastral survey is expected to be completed by 2010.

The deadline for property registration at the Ktimatologio has extended to October 31, 2008 while the same deadline is December 30, 2008 for owners residing outside of Greece. Failure to register within this time frame will result in a fine ranging from 50 to 1,500 euros (based on the type and value of property right which has not been registered).

Any person or legal entity (companies, institutions, foundations, etc..) with real estate property rights of any kind (including but not limited to ownership rights, easements, mortgages, leases for more than nine years, encumbrances) is obliged to register his/her ownership rights to the Ktimatologio in Greece's records by submitting the relevant statements and documentation before the competent Ktimatologio authorities.

Where the acquisition of property rights is by way of inheritance, the right holder can register his right even before completing the Acceptance of Inheritance procedure and formally become the owner of the property. In this case, the property right is recorded in the Cadastral lists and books, yet, the right holder may not complete any ownership actions before formally completing the procedure of passing title to his name.

The property registration to the Ktimatologio is effected in two phases: first, statements with the required documentation will be submitted, properties will be located and recorded in an electronic database (up to now, the existing Greek Land Registry - Ypothikofilakeion - system consists of public registry in the form of handwritten books). In the second phase, property rights will be legally verified and each piece of property will be precisely defined. Property rights will be posted on a list, thus giving the opportunity to Greek land right holders to object in the event the property where they believe they own a right is listed under someone else's name or as "unknown owner".

A necessary prerequisite for submitting the relevant application and documentation for property registration to the Greek Ktimatologio archives, is the payment of the required fee (35 euros per each property right in urban areas; 20 euros per property right on auxiliary areas, such as storage rooms, garages, etc). Note that in rural areas, one should pay only for two property rights regardless of the number of rights registered. Once the property right is registered in the Cadastral, the right holder will be called to pay an additional amount (a variable fee of 1 % of the property's tax

value exceeding 20,000 euros, to be apportioned among the co-owners, if more than one, and up to a maximum amount of 900 euros).

If the information regarding the property changes, an additional statement must be submitted. Submitting false statements will result in sanctions, including imprisonment of 3 months to 10 years. No transactions are permitted until the property is declared, including issuance of a building permit. Said prohibitions are lifted with the submission of the application to the Ktimatologio in Greece. In the event one acquires a property right during the time period when the area is undergoing the Ktimatologio registration, he should file an application, even if the previous owner had already done so.

A Greek lawyer can pursue all the necessary transactions for the registration of your Greek Property.

Regions under property registration

ATTICA: AGIA VARVARA, AGIOS KONSTANTINOS, AGIOS STEFANOS, AGIOI ANARGYROI, ATHENS , AIGALEO, ALIMOS, ANAVYSSOS, ANTHOUSA, ANOIXI, ANO LIOSIA, ARGYROUPOLI, ASPROPYRGOS, ACHARNES, VARI, VOULA, VOULIAGMENI, GALATSI, GLYFADA, DAFNI, DIONYSOS, DROSIAS EKALI, ELLINIKO, ZEFYRI, ILIOUPOLI, IRAKLEIO, THRAKOMAKEDONONES, ILION, KALLITHEA, KALYVIA-THORIKOU, KAMATERO, KERATEA, KIFISSIA, KOUVARAS, KRYONERI, KROPIA, LAVREOTIKI, LYKOVRYSI, MANDRA, MARATHONAS, MARKOPOULO MESOGAIAS, METAMORFOSSI, MOSCHATO, NEA ERYTHRAIA, NEA IONIA, NEA MAKRI, NEA PENTELI, NEA FILADELFEIA, NEA CHALKIDONA, PALAIA FOKAIA, PALAIO FALIRO, PALLINI, PAPAGOU, PIRAEUS, PENTELI, PERISTERI, PETROUPOLI, PEFKI, PIKERM, RAFINA, RODOPOLI (BALLAS)*, SARONIDA, STAMATA, TAVROS, YMITTOS, FYLI, CHAIDARI, PSYCHIKO.

THESSALONIKI: AGIOS PAVLOS, AMBELOKIPI, ELEFThERIO KORDELIO, EFKARPIA, EVOSMOS, THESSALONIKI, IONIA, MENEMENI, NEAPOLI, PEFKON, POLICHNI, STAVROUPOLI, SYKIES, TRIANDRIA, ORAIOKASTRO

ARGOLIDAS: NAFPLIO

ARCADIAS: TRIPOLI

VIOTIA: LEVADIA

DRAMA: DRAMA

EVROS: ALEXANDROUPOLI

ZAKINTHOS: ZAKINTHION

ELIAS: PIRGOS

THESPROTIA: IGHOUMENITSA

KARDITSAS: KARDITSA

KILKIS: KILKIS

KOZANIS: KOZANI

KORINTHIAS: KORINTHOS

LAKONIAS: SPARTI

LARISSAS: LARISSA

MAGNISSIAS: VOLOS

XANTHIS: XANTHI

PELLAS: EDESSA

PIERIAS: KATERINI

PREVEZAS: PREVEZA

SAMOU: SAMOS

FTHIOTIDAS: LAMIA

FLORINA: FLORINA

CHALKIDIKI: POLIGIROS

3.7 Real Property Burdens and Encumbrances

According to the Greek Civil Code, the real property burden of a Greek mortgage may be imposed on another's real property, for the purpose of securing the satisfaction of a creditor's claim by way of acquiring priority over the property. Greek Mortgages are the most common burden encountered on real estate properties. Greek Mortgages are accessory rights and may also be constituted for the purpose of securing future or conditional claims. In order to impose a Greek mortgage on someone's property, the beneficiary of the mortgage must obtain a title that grants the mortgage right (such as pertinent laws, Court orders and private will) and register it in the relevant Greek mortgage books. The right of registration of a Greek mortgage shall be granted by the debtor or by a third party, acting in favor of the debtor. The person granting the Greek mortgage must be the owner of the property. A Greek mortgage is a non-divisible right, and extends to the entire property, as well as to the components and accessories thereof. A Greek mortgage shall be extinguished by the satisfaction of the claim (in any manner), as well as: a) by the total destruction of the mortgaged property, or b) by the creditor's waiver of his rights, or c) by the foreclosure on the mortgaged property and the payment of the foreclosure proceeds, and d) by the expiration of the time period for which the mortgage was granted.

A prenotice of a mortgage is recorded in the same manner as a Greek mortgage, but with the reference of being a "prenotice". By virtue of the Article 1277 of the Greek Civil Code "a prenotice confers solely a right of preference for the imposition of a mortgage. Upon the claim being granted by a final judgment, the prenotice shall be converted into a mortgage that shall be deemed recorded as of the date of the prenotice." The conversion of a prenotice into a Greek mortgage cannot be prevented by a transfer of the property's ownership to a third party. In the event that prior to the conversion of a prenotice to a Greek mortgage, a foreclosure on the property has taken place, the claim in favor of which the prenotice was entered is listed randomly and the property is acquired by the buyer free of any burdens. A prenotice can be extinguished on the same grounds as a Greek mortgage as well as a) by a revocation of the decision that had ordered the prenotice, or b) automatically, if the prenotice has not been converted into a mortgage within ninety days as of the date of the final judgment that granted the claim (secured by the prenotice).

Another category of real property rights are the real property easements. A real property right may be acquired on a property for the benefit of the current owner of a third property, securing a benefit to the latter (real property easement). By virtue of a real property easement, the owner of the servient tenement shall bear the burden either of accepting some use of his property by the owner of the dominant tenement, or abstaining from certain acts which he would have been entitled to base on his right of ownership. Examples of real property easements are the right of way, the right of supply or drainage or drilling of water or of watering cattle belonging to the dominant tenement, the right of cutting of wood etc. Real property easements are constituted by means of a contract or by continuous possession. The provisions governing continuous possession of real property and the conveyance of property by agreement, apply also in regards to the real property easements.

There are also lawsuits against the ownership of a property that can be a burden of the property as in the Greek law, and more specifically Article 1094 of the Greek Civil Code in which the owner of a property shall have the right to demand from the possessor or the holder the acknowledgement of his right of ownership and the return of the property. Moreover, the owner shall have the right to demand from the offender the cessation of such interference with his ownership and its non recurrence in the future, when the ownership interference involves removal or retention of the property by virtue of Article 1108 of the Greek Civil Code. In addition, according to the aforementioned article, the owner may also be entitled to a claim for compensation in accordance with the provisions governing unlawful acts. The right flowing from the preceding article shall not be granted, if the offender's actions were lawful or based on a right granted to him.

Also as a burden on property in Greece, a foreclosure may occur due to economic circumstances, i.e. debit, bankruptcy. Foreclosure is identified into two phases: temporary foreclosure and permanent foreclosure. According to Article 715 of the Greek Civil Code, it is forbidden to dispose or relinquish property rights in any way under temporary foreclosure status. In addition, Article 722 states that when the decision relating to the foreclosure becomes permanent the property then will be offered for public sale. Therefore, it is important when searching at the Land Registry to correctly identify the foreclosure status in the relevant archives.

In Greece all in rem rights must be registered with the Land Registry, given that Article 1198 of the Greek Civil Code provides that lack of registration results in the non-transfer of ownership or in the non-creation or non-abolition of a right in rem on real property. In view of the above, registration with the Land Registry is a prerequisite for the conclusion of a real estate transaction.

There are currently two systems of publicity of the in rem rights on real property: (a) the system of Transcriptions and Mortgages Books and (b) the recently introduced system of the National Cadastral (Laws 2308/1995 and 2664/1998, as in force).

The system of Transcriptions and Mortgages Books is based on the keeping of a file of personal "shares", namely indexes of persons who have entered into real estate agreements, whereas under the National Cadastral every property has its own registration and the relevant legal status research is conducted per property. Therefore, the National Cadastral issues a separate Index Number for each property, instead of each owner. It should further be mentioned that in the Cadastral system a mapping-cadastral survey of the real properties is established and the boundaries of the properties are clearly defined.

3.8 Buyer's Real Estate Rights

According to the article 513 of the Greek Civil Code, by executing the contract of sale the seller undertakes the obligation to transfer the ownership of the object or right that constitute the subject matter of the sale, and the purchaser undertakes the obligation to pay the agreed price. The seller is under an obligation to transfer the subject matter of the sale free from any rights belonging to any third party (legal defect). The seller is not responsible for legal defects existing at the time of the sale, if the purchaser had knowledge thereof. However, the seller shall be responsible for existing mortgages or prenotices of mortgage or attachments or pledges, even if the purchaser had knowledge of their existence.

The seller is also under an obligation to deliver the object that is being sold to the purchaser free from any actual defects, which nullify or substantially diminish the value or usefulness of the thing. The object of the sale has actual defects which nullify or substantially diminish its value or its usefulness when: a) the object does not correspond to the representations made by the seller regarding its description; or b) the object is not suitable for the purpose for which it is being purchased; or c) the object cannot serve its intended purpose, as that relates to objects belonging to the same class; or d) the object does not meet the quality or performance that the purchaser demands from objects of the same class.

The seller shall not be liable in respect to actual defects which were known to the purchaser at the time of the closing of the sale. In the cases where the seller is liable for an actual defect or the lack of an agreed quality, the purchaser shall have the right to rescind from the sale contract or demand a reduction of the sale price or the repair or replacement of the sale object with another, suitable for the use and purpose intended. The purchaser can always demand compensation for the seller's failure to perform under the contract.

If the purchaser has accepted the object without reservations and with knowledge of the defect or the lack of the agreed quality, he shall be deemed to have accepted the thing as is. Upon the revocation of the sale, the purchaser is under an obligation to return the object, free from any burden that he may have caused as well as the proceeds he acquired therefrom. The seller must return the price with interest, the sale expenses, as well as the disbursements incurred by the purchaser in respect to the object. The purchaser has the right to request alternatively the revocation of the sale or a reduction of the sale price or the replacement of the sale object, even if the object has been destroyed or has deteriorated due to the defect.

When more than one item constitute the sale object, if only some of them are defective or lack an agreed quality, the above rights apply only in regards to the limited number of defective items. However, if the intention of the parties has been that the items are being sold in bulk or as a whole, and the defective or deficient items cannot be separated from the non-defective without one of the parties being prejudiced, the revocation will apply to the totality of the items.

3.9 Purchase of Property in Border Territories

It is highly likely that many have considered purchasing real estate in some regions of Greece. However, such purchases are often impossible for certain areas of Greece, since many have been characterized by law as "border territories" and the purchase of land in border territories, is permitted only to those (natural and legal persons) who have Greek nationality, including the citizens from Cyprus and the E.U, following an application requesting the permit issued by the competent authority. This application, where the applicant states the purpose for which the land in border territories, is submitted before the competent committee, different for each Prefecture. The permit is given under the condition that the committee approves the application. The majority of the persons that participate must vote in favor of the application while the positive vote of the representative of the Ministry of Defense is required.

Greek border territories include not only areas in the borders of Greece with other countries, but also areas in the center of the Aegean Sea (such as the islands of Skiros and areas in Crete), which are also considered "border territories".

On the contrary, the acquisition of real estate within the "border territories" in Greece by foreign citizens without Greek nationality or other foreign individuals is very difficult or even impossible, since a special permit is required by the Minister of Defense, following an application by the person interested in buying real estate property. In fact this permit is only given in rare cases and after careful consideration due to national security reasons.

Foreign citizens descended from Greece, possess Greek nationality and so do not have any of the above problems in purchasing real estate in any region in Greece. In fact, Greek Australians for example, do have Greek nationality.

4. Property Taxation in Greece

As authors of multiple books and articles on property taxation in Greece, we provide exclusively prompt and effective legal services to Greek Australians, with regard to their property in Greece.

Our experience as Greek Tax Lawyers for Estates, we generate the most sophisticated legal and tax vehicles for the minimization of taxation.

4.1 Greek Inheritance Taxation

Greek inheritance taxation is based on the principal that acquiring property without exchange, results to the ability of the person who acquired the property to pay taxes to the state, for the re-allotment of individual funds and for reasons of social policy.

Greek inheritance taxation is regulated by Law 2961/2001. Changes to the Inheritance taxation law have been effected by virtue of the No. 3634/2008 for the reduction and abolishment of Greek inheritance taxation for deaths that occurred after December 13, 2007; date that the relevant law has been submitted for approval to the Greek Parliament. However, the new Government has recently implemented its proclamations and issued tax law 3815/2010. The above law applies for deaths that occurred after January 8, 2010.

Every natural person or legal entity who acquires inherited property is obliged to file Greek inheritance taxation statements for the Greek Estate, declaring to the competent tax authority of the deceased's last residence, the bequest of the inherited assets. In case that there is more than one heir, then each heir is obliged to pay Greek inheritance taxes, depending on the property that he is entitled to. In the Greek inheritance tax statements, the heir has to declare any asset that is bequeathed to him either real estate property (lots, plots, buildings, etc.) or personal (funds, furniture and equipment, stocks, bonds, cars, boats) or even any allowance of funds to any person.

The deadline for filing, the Greek inheritance tax statements arises to six months upon the deceased's passing or upon the will's probate, in case that the deceased has left a will probated by the Greek Court or the Greek Consulate. Said deadline extends to one year, if the deceased passed away abroad. An extension of three months may be granted, upon the relevant application of the heirs for specific reasons (e.g.. health problems of the heir, his absence abroad, encountering difficulties towards collecting the relevant documentation for the filing). In any case, the right of the Greek State to collect taxes for deaths that occurred before December 31, 1989 has expired.

For the imposition of the Greek inheritance tax, Greek law has ranked the heirs in categories, depending on their kinship with the deceased. A different Greek inheritance tax structure is provided for each category, providing a tax free amount and a progressive tax scale, depending on the value of the inherited property. Additionally, for the final Greek inheritance tax imposition, any previous tax paid for parental gifts or gift deeds is taken into consideration and reduced from the final Greek inheritance tax imposition.

A number of relatives are included to each tax scale. More specifically:

First category: parents, children, grandchildren, surviving spouse, etc...

Second category: grand parents, great grandchildren, brothers-in law, sisters-in-law, parents-in-law, children of the deceased from previous marriages, etc.

Third category: any other relative who is not included in the above categories or heirs, who do not have kinship with the deceased.

According to the provisions of the Greek Estate tax laws, the Greek inheritance tax imposition is certified and is paid in up to 24 bimonthly installments. Each of such installment can not be less than €500, except for the last installment. If the amount is paid in full within the deadline for payment of the first installment, then a 5% discount on the total amount is provided.

The execution of any Notarial document, by virtue of which ownership on inherited properties is conveyed, is prohibited, without the prior documented tax clearance that there is no Greek inheritance tax due (tax free inheritance or payment up in full).

According to the provisions of inheritance taxation law 3634/2008, the progressive Greek inheritance tax scale for the first two categories of heirs, as determined by the previous tax system of law 2961/2001 is abolished. This law held the tax free amount of €95,000 and €20,000 for each one of the first two tax scales respectively, while the remaining of the properties tax value is taxed in a percentage of 1% for real estate properties, 0,6% and 1,2% for stocks and bonds and 10% for the rest of the assets.

Additional changes have been made on the ways of payment of Greek inheritance taxes for the first two categories of heirs. Payment of tax imposition for real estate properties can be made to up to three (3) equal bimonthly installments, while for the rest of the assets payment is effected in six equal bimonthly installments. For the heirs of the third category, payment is effected in 12 equal bimonthly installments.

In an attempt to establish a more fair taxation system and increase the Public Revenues, the new Greek government has proceeded with changes to the previous Inheritance taxation system of law 3634/2008. According to the provisions of the new inheritance taxation law, the tax free amount has increased to €150.000 (instead of €95.000), while when the inheritance includes real estate properties the remaining of the properties tax value is taxed under a progressive tax scale from 1% to 10%.

An increase to the tax free amount has also been effected to the heirs of the second category. The tax free amount has increased from €20.000 to €30.000, while for real estate properties the remaining of the properties tax value is taxed under a progressive tax scale of 5% to 20%.

Moreover, when the inheritance consists of funds, the bequest of the funds is taxed under the fixed percentage of 10% for heirs of the first category and 20% for heirs of the second category.

Finally, when the inheritance is granted to the surviving spouse of the deceased and/ or his minor children, a tax exemption of €400.000 applies for each of the heirs, instead of the tax free amount of the first category of €150.000.

All the above procedures for the protection of your Property in Greece, can be accomplished through a limited Power of Attorney to a specialized Greek Lawyer, like our Law Firm.

4.2 Greek Real Estate Conveyance Tax

One of the main taxes that are imposed on Greek real estate property, is the Greek conveyance tax. The reason for the imposition of the Greek conveyance tax is the exchange that the parties receive from a conveyance of real estate property. Since the establishment of the Greek State, there has always been a Greek conveyance tax of real estate properties with an exchange. Today, Law 1521/1950 after numerous amendments and changes, regulates the Greek conveyance tax on real estate property with an exchange. Greek conveyance tax on real estate property have come into effect by more recent laws (Law 2859/2000 and Law 3427/2005), which regulate the conveyances of properties from a constructor or conveyances of properties acquired by the seller after January 1, 2008.

Pursuant to the provisions of Law 1521/1950, subject to taxation is the conveyance of the Greek real estate property with an exchange, i.e. when the seller receives exchange (money or other) for the sale. Such exchange can be given either by immediate payment of the sale proceeds or by credit, or through the sale (exchange) of another property. As conveyance of properties it is considered the conveyance of ownership rights either by virtue of Notarial Deed or a Court's ruling, or the resignation of the owner of real estate property rights or through allotment of a property.

The tax value of the Greek property is the value that the property has (market value or "objective" tax value), at the time of the property's conveyance. In particular, the tax is calculated on the market value that is depicted on the conveyance Deed, and in case that this value is lower than the "objective" tax value, the tax is imposed on the (higher) "objective" tax value.

The Greek conveyance tax is estimated with the percentage of 9% for property value up to 15,000 euros and for the amount of the sale price exceeding the amount of 15,000 euros with the percentage of 11%. Additionally, there is an additional tax imposition of 3% on the above tax in favor of the Greek Municipalities. In cases of distribution of properties, the above percentages are decreased to $\frac{1}{4}$, while the tax is reduced to $\frac{1}{2}$ in cases of properties' exchange.

Greek conveyance tax burdens the purchaser, while the purchaser and any third party in possession of the property are liable for five years after the execution of the conveyance Deed.

Several exemptions exist for the Greek conveyance tax. One of the most important exemptions of the Greek conveyance tax is the exemption of "first home residence", which is granted in case that the purchaser, his spouse and their minor children do not have rights of full ownership, life estate rights or rights of habitation on another house or apartment which can cover their housing needs; even in case that they have not ownership rights on a buildable plot, where a house that will cover the housing needs of the family can be built. Another exemption of the Greek conveyance is the "first home" residence. This Greek conveyance tax exemption is granted only once and applies in houses up to 200 sq.m., with a further addition of 25 sq.m., for every minor child beyond the second of the right holder, under his

parental care. Greek Australians who have worked abroad for at least six years and are registered to the Municipality Rolls of Greece, are entitled to the exemption of “first home” residence, even in cases where they do not reside in Greece permanently at the time of the acquisition. As Greek lawyers specialized on real estate conveyances, we undertake all necessary registrations, so our clients enjoy the most out of the tax exemptions provided. The Competent Tax authority for the submission of the conveyance tax statement in Greece, is the tax authority of the property's location.

Copy of the submitted Greek conveyance tax statement, as well as copy of the receipt of payment of the tax imposition, are necessary for the Notary Public, in order for him to be able to proceed with the execution of the conveyance deed. The Notary Public is prohibited from executing a conveyance deed, if a time period of more than three months has passed since the execution of the Greek conveyance tax statement.

4.3 Annual Real Estate Property Fee in Greece

Real estate property implies the healthy financial status of the tax payer and is subject to taxation in most countries. Until recently, Greek real estate property taxation, was imposed mainly on the conveyance of properties and not on the property itself. This was considered unfair and a symptom of a less developed country. Upon these negative critiques, therefore, an attempt to decrease the conveyance taxes and almost abolish the inheritance tax and tax on Parental Gifts in Greece occurred. As an offset to this abolishment of taxation, in the beginning of the year 2008, a new Greek real estate taxation has been imposed that natural persons or legal entities are in possession in Greece, i.e. the annual Greek real estate fee.

Such a fee is an annual real estate tax, which is imposed on real estate property, that natural persons or legal entities are in possession in Greece on January 1, 2008 and for each year. For the implementation of this law, as real estate property is considered every right of full ownership; of bare/"naked" ownership (remainder); of life estate right on real estate property, even rights of exclusive occupation on jointly owned parts of the basement, of the "pilotis" or of the rooftop; or to the unbuilt section of the building, which is used as parking space, auxiliary space or as a swimming pool.

Subject to taxation is every natural person or legal entity regardless of its citizenship, residence or seat, that is in possession of real estate property rights within Greece on January 1 of each year, regardless of the changes on the property status, which will occur within the same year.

The annual real estate fee is estimated on the value that the properties or the real estate property rights have on January 1 of the year of taxation. In areas where the "objective" tax estimation system is in effect, the fee is imposed on the objective tax value in Greece the properties have according to this tax system. The value is estimated according to the values that the Greek Ministry provides, and according to the specific documents for estimating the objective tax value. In case that the objective tax system is not in effect for the specific area, the value is estimated on the market value of the property.

The Greek real estate taxation of each person is taxed separately. Competent Tax authority for the submission of the statements and the tax imposition, is the Tax authority where the tax payer files his income tax statements. For natural persons, information for real estate properties that each person has, is provided by the E-9 tax statements, which are filled jointly with the annual Income tax statements, declaring the annual changes on the property status.

The annual real estate fee which is imposed on the value of the Greek real estate property, arises to the percentage of 0.1% for natural persons and to 0,6% for legal entities. However, the fee which corresponds on the value of the buildings cannot be less than 1 € per sq.m., with the exemption of auxiliary spaces and semi-built buildings.

Greek taxation law provides for several exemptions from the imposition of an

annual fee, mainly but not limited to: plots outside the urban plan, on which natural persons have rights of full or naked ownership, forests and private forests, real estate properties which belong to the Greek State, to Greek Municipalities, properties which belong to Foreign Countries, churches and monasteries of known religions according to article 13 of the Greek Constitution, buildings for which a permit for demolition has been issued, etc... Additionally, there is an exemption for real estate properties of natural persons for properties used as primary residence of the tax payer, for residences up to 200 sq.m. and whose value does not exceed the €300,000. This exemption is not provided to foreign residents.

Payment of the fee is effected in up to three bimonthly installments, depending on the time that the fee was imposed. An exemption from the above applies, in case the total fee for the tax payer and his spouse does not exceed the amount of €250. In cases of lack of filing statements for the annual fee, of false statements or of overdue filing, the Tax authority may impose additional taxes or penalties.

The prior payment of annual Greek real estate fee is necessary for any conveyance deed. According to the provisions of the law, the execution of a Notary Deed is prohibited, without attaching to the Deed, the relevant certificate that the fee, which correspond to the specific property has been paid in full.

Until today, many problems have been encountered by the Greek Ministry of Economics, for the issuance of the tax notices and the forwarding of the notices to the tax payers for receiving payment of the annual Greek real estate fee, before the end of the year 2008. It is true that, until December 2008, a very few notices have been sent to the tax payers.

4.4 Taxation on Parental Gifts and Gifts in Greece

The conveyance of properties through a Parental Gift, are specifically regulated by Greek taxation law. The needs of the Greek family as well as the special care that the Greek legislator provides to family affairs, has resulted to a more favorable regulation of the Parental Gifts through more lenient tax impositions than other conveyances.

Law 3634/2008 provided the reduction of taxes not only for inheritances but for conveyances of properties through parental Gifts, as well. However, the new Government has fulfilled its proclamations and issued law No. 3815/2010, pursuant to which many changes have been effected to taxation of parental gifts. The provisions of this law concern parental gifts that occurred after January 8, 2010.

Subject to Parental Gift taxation is the person who acquires the property right, i.e. the child who accepts the Parental Gift. In case that the child passes away, obliged to pay the tax imposition are his successors, i.e. his legal heirs.

The tax obligation arises at the time of the execution of the Parental Gift Deed in Greece. More specifically, for conveyances of real estate properties, the parties have to file a Parental Gift tax statement before the competent tax authority, prior to the execution of the Notarial Deed.

The competent tax authority for filing the Parental Gift tax statements is the tax authority of the parent's residence. However, in cases that the filing of the Parental Gift tax statement to the competent tax authority is difficult, since the competent tax authority is located far away from the place where the Parental Gift Deed will be executed, it is permitted to file the Parental Gift tax statement in the Tax authority of the place of the deed's execution. In case that the parent- grantor is a foreign resident, the competent tax authority is the Greek Tax authority for foreign residents or any other Tax authority appointed by the relevant ruling of the Minister of Economics. For Greeks residing abroad, the parental gift deed may be executed before the Greek Consulate, and the Parental Gift tax statement is filed before the Greek Consul and the tax is paid in full to it.

According to taxation Law 3634/2008, the Parental Gift tax in Greece is progressively reduced. More specifically, Parental Gifts in Greece which take place after December 13, 2007 are regulated by this law. This law provided a tax free amount of €95,000 on the value of the gifted property , while the remainder of the property's value is taxed with a fixed percentage of 1%, if the gift concerns real estate property rights. The above fixed percentage of taxation rises to 0,6% and 1,2 % for parental gifts of stocks and bonds, and 10% for other assets.

The new taxation law 3815/2010, has increased the tax free amount to €150, 000. When the parental gift concerns real estate properties, the remaining of the properties' value over the tax free amount is taxed under a progressive tax percentage of 1% to 10%.

In case of parental gift of funds, the tax is estimated on a fixed percentage of 10%.

As indicated above, since the execution of a Parental Gift in Greece is only effected through a Notarial document, the Parental Gift tax statement is submitted prior to the execution of the Notarial Deed, regardless of any tax imposition.

Payment of the tax imposition on Parental Gifts of real estate properties after December 13, 2007 (date that the new law has been enacted), is effected in three equal bimonthly installments of no less than €500 for each one respectively, except for the last one. When Parental Gifts in Greece include other property, payment of the imposed tax is effected in 6 equal bimonthly installments. Same applies, according to the provisions of the new law.

Taxation of gifts is basically, the same as for the Parental Gifts and inheritances in Greece. The law has ranked the relatives in categories, depending on their kinship with the grantor. A different tax structure is provided for each category, providing a tax free amount and a progressive tax scale, depending on the value of the gifted property. Additionally, for the final tax imposition, any previous tax paid for parental gifts and gift deeds are co-calculated and reduced from the final tax imposition.

More specifically, the three categories are:

First category: parents, grandchildren, surviving spouse, etc...

Second category: grand parents, great grandchildren, brothers-in-law, sisters-in-law, parents-in-law, children of the deceased from previous marriages, etc.

Third category: any other relative who is not included in the above categories or heirs, who do not have kinship with the grantor.

The tax imposition is validated and paid in up to 24 bimonthly installments. Each of such installments can not be less than €500, except for the last installment. If the amount is paid in full within the deadline for the payment of the first installment, then a 5% discount on the total amount is provided.

The procedure of a parental gift in Greece may be implemented through a Special Power of Attorney to a specialized Greek Lawyer.

4.5 Capital Gains Tax & Value Added Tax in Greece for Real Estate

Significant changes on the way of taxation of conveyances of real estate property with exchange, have come into effect pursuant to laws 2859/2000 and 3427/2005, according to the provisions of which, a different taxation system applies for conveyances of real estate properties in Greece with exchange, than the previous taxation system of law 1521/1950, which was in effect for a period of more than fifty years.

According to the provisions of the above laws, the conveyance of real estate properties whose building permit was issued or revised for any reason after January 1, 2006 and works on the construction have not begun before the aforementioned date, is subject to Value Added Tax (V.A.T.) in Greece, with a fixed percentage of 19%.

Subject to V.A.T. taxation in Greece is every natural person or legal entity of any form that constructs buildings for sale. The building construction may be effected directly by them or by appointing sub-constructors, regardless of the fact the construction is performed in their own plots or through the system of exchange (“antiparohi”).

Each natural or legal entity, that is engaged professionally in the construction business, is subject to the V.A.T. in Greece. In furtherance to the above, any person occupied occasionally with building construction, may request the application of the V.A.T. system on him for the conveyance of the properties that he will construct. It is clear from the above, that any natural person /owner of a building plot that assigns the building construction by the system of giving in exchange (“antiparohi”), is not subject to the V.A.T. in Greece for any conveyance of properties under exchange (“antiparohi”), that he will effect.

Necessary conditions for taxation of conveyances, according to the provisions of this law, are: a) the conveyed real estate property to be a building, b) that the constructor will receive exchange for this conveyance, c) the conveyance is effected by a constructor, who constructs buildings for sale and d) the building permit has been issued after January 1, 2006 or the permit has been reviewed after this date and no works have been performed before the review of the building permit.

Greek tax law provides several exemptions from the V.A.T., such as the exemption of “first home” residence for purchases of newly built properties.

The previous law 1521/1950 which regulates the taxation of conveyances of real estate property in Greece, does not apply on conveyances of real estate properties under exchange, when the property has been acquired by the seller after January 1, 2006. In this case, capital gains tax is imposed on the seller.

Subject to such taxation is the difference between the value of the property at the time of the purchase and the value of the property at the time of the sale. This value is always estimated by the objective tax system, when the property is located in an area where the objective tax system applies. As indicated above, this tax burdens the

seller and is estimated on a fixed percentage on the difference between the value of the property at the time of the acquisition and the value of the property at the time of the property's disposal, progressively reduced (starting from 20%, reducing up to 5%), depending on the number of years that the seller had the property in his possession. Conveyances of real estate properties by virtue of Greek Court Rulings, partition of properties, exchanges, conveyances of undivided interest shares on a plot as result of the system of exchange ("antiparohi"), exchange or unification of real estate and the conveyances of undivided share interests to the building plot, given as exchange for construction agreement, are not subject to capital gains tax.

Additionally, in cases that Greek real estate property was acquired by any reason after January 1, 2006, except for the capital gains tax in Greece, which is paid by the seller, the buyer is obliged to pay the transaction fee, which arises to 1% on the value of the real estate property in Greece that the parties have agreed to. The value on which the tax is applied, is the market value of the property, as depicted in the conveyance Deed. In case that such value is lower than the objective tax value of the property, then the tax is applied on the higher objective tax value.

The competent tax authority for the submission of the capital gains tax in Greece is the tax authority of the property's location. The execution of Notarial Deeds is prohibited without attaching to the Deed, a copy of the submitted Tax statements and the receipt from the Tax authority that the imposed tax has been paid in full.

All the above procedures for your Greek Property, can be accomplished through a limited Power of Attorney to a specialized lawyer in Greece, like our Law Firm.

4.6 Income Tax Statements in Greece

Any natural person, receiving income in Greece is obliged to pay taxes in Greece, regardless of his nationality or his residence. Additionally, regardless of his nationality, every natural person who receives income from abroad is obliged to pay taxes, if he resides in Greece.

The above apply with the reservation of the provisions of any treaty for the avoidance of double taxation, which has been executed between Greece and the country, where the Greek resident receives the income or the country where the foreigner who receives income in Greece resides.

Foreign residents are taxed for income that is received in Greece. In general, foreign residents are taxed under the same provisions of the Greek law as Greek residents, with several particularities applying for them. Therefore, obliged to file income tax statements in Greece, are people who reside abroad and receive income in Greece, actual or presumed (i.e. from purchase of properties, from building constructions, purchase of cars of high value in Greece, purchase of boats, etc.), when their annual income is over €3,000 for the specific financial year.

In furtherance to the above, obliged to file income tax statements in Greece are those who receive agricultural income, regardless of being mainly farmers and of their total income.

In any case, regardless of receiving actual income in Greece, foreigners/Greeks residing abroad are obliged to file income statements in case that they:

- receive income from leasing real estate property and their income is over €600per year;
- acquire real estate properties in Greece or raise buildings;
- run their own business in Greece;
- purchase cars, boats in Greece;
- are members of a partnership (personal company); of a limited liability company; a joint venture; or a company of the Greek Civil Code which practices in Greece;
- are called to file income tax statements, upon the relevant notice of the competent Director of the competent Tax Authority;
- own in Greece one or more secondary residences (rural or not) of size of more than 150sq.m.;
- have acquired rights of full or naked ownership (remainder) or right of life estate ownership or right of residence on real estate properties within Greece. In such a case, the tax payers have to co-file with the income tax statement (E-1), a statement of real estate properties (E-9 document).
- changed their family or real estate property (i.e. when their real estate properties are conveyed; they acquire new property pieces under their names, in cases of death, divorce, etc..)

In cases of death of the tax payer, obliged to file income tax statements in Greece are

the heirs of the deceased for income received by him until the time of his passing. In such a case, the heirs of the deceased are obliged to file joint income tax statements in Greece under the name of the deceased for income received until his passing.

For tax payers, who do not reside in Greece, the deadline for filing income tax statements in Greece is determined through the issuance of a Ruling of the Minister of Economics; such deadline expires usually in the beginning of May of each year.

Obligated to file income tax statements in Greece are the minor children for income received and taxed under their names (from their own work, from assets that the minor has acquired from inheritance, from gifts to the minor from people other than his parents, from pensions that the minor receives due to the death of his parent, etc.). This income is declared under the name of the minor child and is taxed under his name, by filling a tax statement under the name of the child, signed by the father of the minor. If the father has passed away, the statement is signed by the minor's mother or by another person who has the child's custody.

All the above procedures for the fulfillment of the tax obligations regarding your Greek property, can be accomplished through a limited Power of Attorney to specialized lawyers in Greece, like our Law Firm.

4.7 Income Taxation Procedure in Greece

Any natural person or legal entity, earning income in Greece, is generally, obliged to submit annual tax income statements and be taxed for such income.

Greek taxation law has ranked the tax-payers/natural persons into two tax scales: 1) wage earners - pensioners; and 2) other professionals, according to the category of income that each tax-payer receives. Basically, the distinction that is taken into consideration for ranking a natural person into the category of wage earners - pensioners is whether his income from wage earning services/pensions exceeds the percentage of 50% of his total income.

Each taxation scale provides a tax free amount of income for which there is no tax imposition (for the year 2008, the tax free amount rises to €12,000 for the wage earners - pensioners and to €10,500 for other professionals). The amount of income that exceeds this amount is taxed with a progressive tax scale.

For determining the net income of every scale, a number of expenses are deducted, which are usually expenses incurred for the acquisition of the income by a certain category. Moreover, the tax authority adds the income that is received from presumed or actual expenses (expenses incurred for the purchase of a car, building a house in Greece, etc), based on the relevant provisions of the Greek law ("tekmiria").

For foreign residents, there is a tax in Greece imposition in the percentage of 5%, instead of the tax free amount that each tax scale provides.

If the total income includes income received from real estate property in Greece, in addition to the main tax that is imposed, there is an additional tax in the percentage of 1,5% on the gross income received from real estate properties. In case that the size of each residence exceeds the 300 sq.m., the additional tax arises to the percentage of 3% on the gross income received by such residence. However, the amount of the additional tax can not exceed the main tax, imposed on the total income.

In furtherance to the above, reductions from tax are provided, depending on the number of children that burden each taxpayer; reductions for medical expenses and expenses for hospitalization; tax reductions for housing needs of the tax-payers' children; expenses for rents and out-school lessons etc. Foreign residents are entitled to these tax reductions, only in case that they reside in the European Union and acquire income in Greece that exceeds the percentage of 90% of their global income. In order to be entitled to this benefit, the resident of a European Union member State, has to file to the competent Greek Tax Authority, a certificate for his global income issued by the local tax authority of their place of residence.

Despite the actual income that is declared from the taxpayer, his total income is also defined, based on his and his family's expenses, as per the relevant provisions of the Greek Income Taxation law 2238/1994. The definition of the income based on the expenses, is based on the rationale that the taxpayer must justify expenses incurred by declaring respective income that he has "presumably" received ("tekmiria").

The expenses may include: a) presumed expenses that each taxpayer is considered to have acquired from ownership rights or use of certain assets, such as the possession of a secondary residence in Greece, of size larger than 150sq.m.; possession of a private car; possession of yachts, aircrafts, etc... or b) actual expenses, made for the acquisition of assets, allowance of loans, gifts, repayment of loans.

For foreign residents, the expenses will be taken into consideration only in case that the expenses were performed in Greece, or in case that the acquired property is located in Greece and generally only in case that there is a connection between the expenses or the object for which expenses have been performed, within Greece.

The difference between the total expenses (presumed or actual) and the total net income of the taxpayer and his wife which is declared in Greece and taxed, consists the difference in expenses. The taxpayer is invited to cover or to reduce this difference by declaring certain income (mainly but not limited to through bank accounts, capital accumulated from past years, import of currency in Greece, loans etc), in order to be taxed on his actual income and not on the presumed.

All the above procedures for the fulfillment of the tax obligations regarding your income in Greece, can be accomplished through a limited Power of Attorney to specialized Greek law firm, like ours.

5. Family law in Greece

Our Greek law firm is very sensitive to family law. Divorce, alimony, children custody and support are very personal areas requiring dedication, discretion, and keen understanding of the laws as they apply to our clients' needs. John Tripidakis and Associates, experience and professional Greek lawyers, can handle such matters effectively and with a comprehensive approach to resolving the complex and delicate family situations faced by our clients.

5.1 Divorce in Greece

The Greek Courts have jurisdiction for the issuance of divorces in Greece involving the dissolution of a marriage if one of the spouses is a Greek citizen, if the spouses had their last common residency in Greece, or if the defendant in a divorce lawsuit has his permanent residency in Greece.

According to Article 1438 of the Greek Civil Code, the marriage is dissolved only after the issuance of a final Court Judgment, which is no longer subject to any appeal, objection etc. According to the Civil Code there are two different procedures for the issuance of a divorce in Greece: the uncontested divorce and the contested divorce.

The procedure for the issuance of a consensual divorce before the Greek Courts is simpler in comparison with the procedure of the contested divorce and the time required for its issuance is usually less. An indispensable precondition in order to proceed with the issuance of an uncontested divorce in Greece is the agreement of the spouses to proceed jointly with the dissolution of a marriage through an uncontested divorce. Moreover, the spouses can file their petition for the dissolution of their marriage before the Court, only if the marriage has lasted for more than one year. The spouses have to file a common petition before the competent Court. Two hearings should take place for the issuance of the divorce in Greece and the interval between the two hearings should be more than six months. During the two hearings the spouses should be present or should be represented by virtues of a recently executed Special Power of Attorney in order to declare their consent for the dissolution of the marriage. In case that there are minor children, it is necessary according to the Article 1441 of the Civil Code that the spouses submit to the Court a written agreement regarding the custody of the children and the communication with the children.

If the spouses do not agree to proceed with the issuance of an uncontested divorce in Greece, the only solution is to proceed with the issuance of a contested divorce. According to the Civil Code there are specific reasons for which a person can request the dissolution of a marriage. Those reasons are the following: a. if the other spouse has disappeared for many years and there is a Court Judgment issued recognizing that the specific person should be legally considered as not living, b. if there is an irretrievable break down of the marriage relationship due to reasons that concern the defendant or both of the spouses, c. if there is an irretrievable break down of the marriage relationship due to the fact that there is no actual or sentimental relationship between the spouses for more than four years. The Court issues the Judgment dissolving the marriage if it is proven that one of the above mentioned reasons exists. The marriage is dissolved at the time that the Court Judgment becomes final.

After the issuance of a final divorce Judgment, the persons should proceed with the registration of the divorce in Greece with the competent registry and with their family's record in the competent municipality. If the wedding took place in Greece and was solemnized in a religious ceremony, it is necessary in order to proceed with the registration of the divorce with the registry and the municipality to procure a certificate for the religious dissolution of the marriage from the competent church

authority.

In October 2008, legislation was submitted before the Greek Parliament, which includes some important amendments to the Family Law. The specific draft of law includes a provision according to which the breakdown of the marriage relationship is considered a reason for the issuance of the divorce if the spouses do not have an actual and sentimental relationship for more than two years, and not four year as earlier.

In case that the marriage has been dissolved by virtue of a judgment issued by the Courts of a foreign country, but the persons are interested in the divorce Judgment being valid in Greece as well, the procedure required for the recognition of a foreign Judgment should be followed. For this purpose a lawsuit should be filed before the competent Court of First Instance. The Court will issue a decision recognizing that the divorce judgment is enforceable in Greece, provided that the preconditions of Article 323 of the Civil Procedure Code are met.

All the above procedures for the issuance of a divorce, alimony, child support, and child custody can be accomplished through a limited Power of Attorney to specialized Greek lawyers, like our Law Firm.

5.2 Alimony in Greece

According to the Greek Civil Code, there is a right after a divorce to receive alimony in Greece. Moreover, the right to receive alimony in Greece exists in case of termination of the marriage relationship.

Articles 1442-1445 of the Greek Civil Code determine the preconditions under which the right to receive alimony in Greece is recognized. The former spouse has a right to receive alimony after the Greek divorce if he/she cannot secure his/her maintenance from the income that he/she has or from his/her property. In this case, one of the former spouses is entitled to request alimony in Greece, provided that one of the following preconditions is met: a. if at the time of the issuance of the divorce he/she is unable to initiate or continue to work in an appropriate profession due to his/her age or due to health reasons, b. if he/she has the physical custody of a minor child and for this reason he/she is prevented from carrying out a proper profession, c. If he/she cannot find a stable and appropriate work or if he/she needs some kind of professional training, but in both cases for a time period that may not exceed three years from the issuance of the divorce, d. In any other case where the judicial awarding of alimony is appropriate for equity reasons.

For the recognition of the right to receive alimony in Greece and the determination of the amount of the alimony, the person should submit a lawsuit before the competent Court in Greece. The Court judges regarding the existence of the right and determines the amount of the alimony based on the financial needs of the parties. Alimony in Greece is payable in advance in cash each month. According to the Greek Civil Code, it is possible that the alimony will be paid in a lump sum if the former spouses so agree in writing or according to the decision of the Court, where particular reasons justify such a decision. The right to receive alimony in Greece may be excluded or be limited if this is warranted by important reasons and especially if the marriage had lasted for a very short time period or if the person requesting alimony has caused the divorce by his fault or if he/she has caused his/her indigence on purpose. In the event that the person who is receiving alimony remarries or cohabits permanently with another person in a free union, his or her alimony rights cease.

According to Article 1391 of the Greek Family Law (Civil Code), a right to receive alimony is also recognized in case of separation and interruption of life in common. The spouse who terminates the conjugal life in common for an important reason has the right to request alimony. During the marriage, the spouses are under an obligation to contribute jointly to the family needs according to their resources. Therefore, in case of separation, the spouse that had the least contribution to the family needs is entitled to receive alimony in Greece in order to continue to have the same living standard.

All the above procedures for the issuance of a Divorce, alimony, child support and children custody in Greece, can be accomplished through a limited Power of Attorney to specialized Greek lawyers, like our Law Firm in Greece.

5.3 Child Support in Greece

According to the pertinent laws in Greece, the obligation of parents to support their children is mandated by Section 1489 of the Greek Family Law (Civil Code), which states in the pertinent part: "The parents are under an obligation to provide maintenance for their child jointly each in proportion to his means." Section 1486 sets the conditions for maintenance: "Solely a person who cannot provide for his own maintenance by means of his property or of work appropriate to his age, the state of his health, and his other living conditions, having also regard to possible needs for his education, shall have the right to claim maintenance." In essence, both parents have the obligation to support their children according to their means. The exact apportionment of child support between the two parents is a matter to be determined by the Greek Courts, which take into consideration the specific facts of each case and interpret the laws accordingly.

The main factor that Greek Courts usually take into consideration, when determining the parents' child support obligation is the financial status of each parent (whether income from employment, ownership of property that can produce income, potential ability to work, etc.). Upon determining the financial ability of each parent, the Courts then decide a fair and equitable apportionment. This obligation of child support, however, only applies towards those children that cannot objectively provide for their own maintenance.

The issue of whether an obligation to support a child exists or not, is a case by case determination; the Court examines the specific facts regarding each child, their individual educational needs and status, their ability to find a job that can sustain them, etc. and then it determines whether a parent is liable for their support.

Based on both statutory and case law in Greece, a parent's obligation to support his or her children does not necessarily end with maturity (18 years). It can continue throughout adulthood, provided the child is studying and/or cannot support himself or herself. According to recent rulings of the Greek Supreme Court (Arios Pagos - the highest Court in civil matters in Greece), " An adult child also has the right of maintenance by his parents, if he cannot support himself from his estate or work appropriate for his age, his state of health and his living conditions, taking into consideration also his educational needs. This maintenance includes according to Article 1493 of the Civil Code, all that is necessary to support the beneficiary plus the expenses for his raising as well as his professional and general education. A right of maintenance is also available to a child that, due to the needs of his education, cannot find appropriate work that would allow the uninterrupted continuation of his studies. The educational needs depend on the remaining living conditions of the beneficiary. Education is also the professional, theoretical technique, of any level, including higher or highest education. The performance of the beneficiary is also taken into consideration, to wit: his ability to perform according to the demands of a certain grade and level of education." (Decision 117/2000ΑΠ, Decision 1681/2005ΑΠ), Decision 1402/2005ΑΠ).

Additionally, in the case that a child born out of wedlock, the father's obligation for child support starts at the time of the legal recognition of the child. According to the

Greek Law, if the paternity is very probable and if the mother has severe financial problems, it is possible to request the issuance of a temporary Court order directing the father to pay child support, until a Judgment is issued determining the paternity issue.

In conclusion, the issue of child support is decided on a case-by-case basis; the Courts consider the facts presented to them, the specific individual needs (whether educational or other) of the child at issue, the financial ability of both parents, as well as the child's standard of living and then determine whether and which parent has a child support obligation and to what extent.

All the above procedures for the issuance of a Divorce, alimony, child support and children custody in Greece, can be accomplished through a limited Power of Attorney to specialized Greek lawyers, like our Law Firm in Greece.

5.4 Child Custody in Greece

In case of a divorce, when there are minor children, one the most important issues that concern the parents is the regulation of child custody in Greece.

According to Greek Family Law (Civil Code), during the marriage both parents have joint custody of the child. Custody includes care of the child's person, management of his/her property and the representation of the child in any matter, legal transaction or Court action relating to the child's person and/or to the child's property as well as decision making regarding the child's educational needs, place of residence etc.

In case of a divorce, both parents continue to have the legal custody of the minor child; however, there is a need for a regulation of physical custody. According to Article 1513 of the Civil Code, in the case of a divorce physical custody in Greece is regulated by the Court.

The most common solution that Greek Courts order for the regulation of physical custody is to assign it to one of the parents, whom the Court considers most appropriate to exercise it. If the parents agree to continue to share physical custody after the divorce, the Court may decide that both parents can continue to exercise the custody, provided that they also agree regarding the place of residence of the child. Moreover, the Court may divide the physical custody between the parents.

The Court, in order to issue a judgment regarding child custody in Greece shall take into consideration the relation of the child with the parents and his/her parents and his/her brothers and sisters, as well as any agreements existing between the parents regarding the parental care and the management of the child's property. The most important factor based on which the Court rules is the child's best interest. In order for the Greek Court to specify the child's interest and decide regarding the physical custody, the Court shall consider the relationship of the child with each of his/her parents, with his/her brothers and sisters, with his grandparents and with other persons such as with his friends, neighborhood, school etc.

In case of an uncontested (mutual consent) divorce, it is mandatory that the parents agree regarding the exercise of the custody. According to Article 1441 of the Greek law (Civil Code-Family Law Section), if there are minor children, the uncontested divorce can be issued only if the parents submit a written agreement regulating the physical custody of the children and the non-custodial parent's visitation schedule. The written agreement is affirmed by the Court and regulates the exercise of the custody. At any event, in case that the facts change, it is possible to request an alteration of the custody order.

The parent who exercises the physical custody (epimeleia) decides regarding the place of residence of the child. The parent with whom the child does not reside, has a right of personal communication with the child. Moreover, the grandparents and great-grandparents also have a right to communicate with the child. The relevant rights of communication with the child are regulated by the Court or through a written agreement between the parties.

The exercise of physical custody and visitation is regulated by the competent Court after the submission of a lawsuit. Moreover, according to Article 735 of the Civil Courts' Procedure Code, it is possible to request temporary injunction measures for the regulation of the relations between parents and children.

All the above procedures for the issuance of a Divorce, alimony, child support and children custody in Greece, can be accomplished through a limited Power of Attorney to a specialized Greek lawyer, like our Law Firm in Greece.

5.5 Rights of a Child Born out of Wedlock in Greece

According to Article 1463 of the Greek Civil Code, the relationship of a person with his/her mother and relatives is established solely by birth. The relationship with his/her father and relatives is presumed from the marriage of the mother with the father or is established by means of acknowledgement of the child from the father, either voluntarily or through a court decision.

A father may acknowledge as his own a child born out of wedlock in Greece, provided that the mother consents. If the mother has died or has no legal capacity to consent, the acknowledgment shall be affected by the sole declaration of the father. If the father has died or has no legal capacity, the acknowledgment may be affected by the father's parents. If the child has died, the acknowledgement shall be effective in favor of his descendants.

An acknowledgment by the father or his parents shall take place by means of a declaration made before a notary public or by a declaration in a last will and testament. The consent of the mother referred to in the aforementioned section, shall be given by means of a declaration before a notary public. The declarations of acknowledgment and consent shall be made personally and unconditionally, and cannot be subject to any terms. Such declarations are irrevocable.

A mother has the right to demand through legal action the acknowledgment of the paternity of her child born out of wedlock in Greece, as a result of intercourse with its father. The legal action of the mother is directed against the father or his heirs.

The right of the mother to demand the acknowledgment of her child's paternity has a statute of limitations of five years, which starts from childbirth. The right of the child shall be extinguished one year after it emancipates, and the rights of the father or his parents two years after the mother's refusal to give her consent.

Paternity shall be presumed, if it has been established that the person in respect to whom the paternity is alleged had bodily intercourse with the mother in the course of the critical period of conception.

In case where a child was born out of wedlock in Greece, the Court may, at the request of the mother, order the father whose paternity has been judicially established, even if the child was born dead: 1) to pay the childbirth expenses, 2) to provide for the maintenance of the mother, in so far as she is unable to provide for her maintenance, for the two months preceding the child birth and four months thereafter or, in the event of special circumstances, for a maximum duration of one year.

In the case of acknowledgment of paternity, whether voluntary or judicial, the child steps into the position of a child born in marriage for all matters in regards to the two parents and their relatives (such as for instance matters pertaining to the child's surname, support, inheritance rights etc.)

According to Article 1486 a child under age shall even if it owns property the right

to claim maintenance from its parents to the extent that the income deriving from its property or the product of its work do not suffice the maintenance of such child. The extent of the maintenance shall be determined having regard to the need of the beneficiary such as they arise from his living conditions (appropriate maintenance).

Maintenance shall comprise all that is necessary for the upkeep of the child and further expenses required for his upbringing as well as expenses for his professional and general education. Maintenance is paid in money each month in advance.

Also according to Article 1502 of the Greek Civil Code in the case where a child was born out of wedlock in Greece and its paternity is very probable and to the extent that the mother has fallen in poverty the Court may even before the lodging of a legal action for the acknowledgement order a measure of protection the advance payment by the father to the child each month of a reasonable amount as against the maintenance due to the child.

5.6 Hague Convention International Child Abduction

The Hague Convention of international Child Abduction was contracted on 25 October 1980 and set in force in 1 December 1983. Greece ratified said convention and the convention was implemented in Greece by the Law 2102/1992.

The Hague Convention applies only among contracting states and is available only when a child is wrongfully removed from a signatory country and retained in another signatory country. Amongst other countries, the United States of America ratified the Hague Convention about the international Child Abduction, same as Canada, Australia, United Kingdom and in South Africa, etc.

The objectives of the Hague Convention are: a) to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and b) to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States. The removal or the retention of a child is to be considered wrongful where: a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the state in which the child was habitually resident immediately before the removal or retention; and b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The rights of custody mentioned in subparagraph a) above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State. The Convention shall apply to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights. The Convention shall cease to apply when the child attains the age of 16 years.

Any person, institution or other body claiming that a child has been removed or retained in breach of custody rights may apply either to the Central Authority of the child's habitual residence or to the Central Authority of any other Contracting State for assistance in securing the return of the child. The application shall contain:

- a) information concerning the identity of the applicant, of the child and of the person alleged to have removed or retained the child;
- b) where available, the date of birth of the child;
- c) the grounds on which the applicant's claim for return of the child is based;
- d) all available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be.

The application may be accompanied or supplemented by:

- e) an authenticated copy of any relevant decision or agreement;
- f) a certificate or an affidavit emanating from a Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State;
- g) any other relevant document.

If the Central Authority which receives an application referred to the above

mentioned has reason to believe that the child is in another Contracting State, it shall directly and without delay transmit the application to the Central Authority of that Contracting State and inform the requesting Central Authority, or the applicant, as the case may be.

The Central Authority of the State where the child is shall take or cause to be taken all appropriate measures in order to obtain the voluntary return of the child. The judicial or administrative authorities of Contracting States shall act expeditiously in proceedings for the return of children. If the judicial or administrative authority concerned has not reached a decision within six weeks from the date of commencement of the proceedings, the applicant or the Central Authority of the requested State, on its own initiative or if asked by the Central Authority of the requesting State, shall have the right to request a statement of the reasons for the delay. If a reply is received by the Central Authority of the requested State, that Authority shall transmit the reply to the Central Authority of the requesting State, or to the applicant, as the case may be.

5.7 Property Division upon Divorce in Greece

According to Article 1400 of the Greek Civil Code, if a marriage is dissolved and the property of one of the spouses has since the marriage increased, the other spouse, provided he contributed in any manner to such increase, will be entitled to claim the attribution of that part of the increase which is due to his contribution. It will be presumed that such contribution amounts to one third of the increase, except if a greater or lesser contribution or no contribution at all can be proven.

It should be noted that it is prohibited to come to an agreement before or during the marriage for the waiver of the claim for contribution to the increase of the other spouse's property. Moreover, neither spouse may renounce such claim or restrict it towards the belongings or its percentage.

The Supreme Court has held (case 1889/2007) that contribution to the increase of the other spouse's property does not solely amount to capital funds. The contribution may even include services provided to the marital house, which can be assessed in money. These services may even be the caring and upbringing of the children for which the other spouse saved expenses and increased his property.

The assessment of the services provided by the spouse may be estimated based on a presumed salary that the spouse would have gained if he/she was working, but instead sacrificed such professional career for the family's benefit.

Property acquired by the spouses by way of donation, inheritance or through acquisition by the disposal of the proceeds of such donation or inheritance is not included in the increase of the spouses' property.

However, the spouses may before or during their marriage choose by contract to regulate the assets which will derive from their marriage, instead of applying the system in Article 1400 of the Greek Civil Code. By choosing this system of community in equal parts for their assets, neither spouse has a right to dispose his/her undivided share (system of joint ownership).

Anything that each spouse acquires during marriage through the disposal of assets belonging to his personal property will revert thereto. The spouse who claims that an acquisition was effected through such disposal will bear the burden of proving his claim.

Regarding chattels, each spouse is entitled to recover any chattel that belongs to him, even if these were used by both or by the other spouse alone. He is, however under an obligation to allow the other spouse to make use of the household items that are absolutely necessary to him for his separate establishment.

The spouses will apportion the use of chattels belonging to both in accordance with their personal needs. If they disagree, the apportionment will be made by the Court, which may award a reasonable compensation for the use it grants.

When the spouses have acquired real estate property jointly, the dissolution of such ownership will be effected through distribution. If the spouses-joint owners cannot

come to an agreement on how to distribute their property, each of them may demand a judicial dissolution pursuant to the provisions of the Greek Civil Procedure.

6. Litigation in Greece

Litigation in Greece refers to legal representation before the Greek judicial system in order to defend our client during a dispute, and John Tripidakis & Associates can represent your case in civil, criminal, or administrative Courts as either a plaintiff or a defendant in Greece. As Greek lawyers, our law firm encompasses over a hundred years of combined legal experience, and it may confidently assist its clients with pragmatic and tactical decision making to reach a favorable outcome for issues requiring litigation in Greece.

6.1 Execution of Foreign Judgments in Greece

Article 905 of the Greek Code of Civil Procedure determines the procedure and the preconditions, in order to execute a foreign judgement in Greece. The procedure of declaring a foreign title executable in Greece is important for two reasons: a) to determine that the requirements set by law are met, in order to b) issue a judgment directing the relevant Greek authorities to execute the foreign title. Based on the applicable Greek laws, an agreement of the interested parties, allowing for them to proceed with execution without having the title declared executable by a judgment, is invalid, even when the lawful requirements are met. Therefore, the applicable Greek Laws, regarding the process to be followed, are mandatory. The requirements and conditions set by the Greek laws, in order to declare a foreign title executable in Greece are the following:

1) **The existence of a foreign title** (i.e. a title issued in the name of a foreign State): this can be a Court judgment as well as any other document, provided it is considered lawful and valid according to the laws of the foreign State (that is, that it was issued by an Authority or person that had the power to act so). Examples of documents that cannot be declared executable in Greece are: checks (because they do not constitute a document issued in the name of a foreign state), private agreements or compromises (because they are not titles) or titles that mandate an act or omission that cannot be forced, such as an act of marriage. It must be noted that, when the foreign title is a Court judgment, this does not have to be final, as long as it is deemed executable according to the laws of the State where it was issued (such as a temporary injunction Order).

2) **The title must be executable where it was issued:** it is irrelevant whether the title is also deemed executable in Greece. The title must still be executable at the time that the request for the declaration of its execution in Greece is filed (therefore, if the foreign title was originally executable but seized to be so at the time that the Greek Courts examine the relevant petition, the title cannot be declared executable in Greece).

3) **The contents of the foreign title must not oppose the public order.**

4) **The foreign title must not offend the morality and customs of the Greek society:** examples of titles that offend the morals and customs are titles or judgments that grant excessive interest that exceeds the lawful maximum.

5) **The lack of existence of a treaty in force between Greece and the foreign State, mandating differently.**

If the foreign title is a Court judgment, the following additional conditions must also be met:

6) **That the judgment is considered a Court judgment by the foreign State that remains in force** (in other words that the lawful conditions have been met and that it has been issued in accordance to the foreign laws).

7) That the judgment regulates a private matter

8) That the judgment is deemed executable based on the laws of the foreign State, where it was issued.

9) That the issuing Court had jurisdiction.

10) That the losing party was not deprived of his or her right to participate in the trial and defend himself or herself.

11) That the foreign judgment does not oppose the judgment of a Greek Court issued between the same parties on the same matter.

6.2 European Union Regulation for the Recognition of Foreign Judgments

Since March 1 2002, European Union Regulation Number 44/2001 is in effect for all member states. This regulation replaced the previous Treaty of Brussels (with the exception of Denmark), regarding international jurisdiction and the enforcement and recognition of judgments in civil and commercial matters. This Regulation replaced the numerous international treaties among the member states and aims to simplify the requirements for the fast and simple recognition and enforcement of the judgments of the member-states that are bound by it. It must be noted that Regulation 44/2001 expressly states that it does not apply in the cases of regulating property rights that are based on a will, inheritance or marital relationship, nor in cases that concern bankruptcies, or dissolution of corporations that are bankrupt nor matters pertaining to social security.

The European Union Regulation, contrary to the Greek laws, expressly allows each party to argue the recognition of the foreign judgment on the merits or as a procedural matter. The Regulation's fourth Chapter, referring to the conditions of recognition and enforcement of foreign judgments (Articles 57 and 58) sets the conditions under which public documents and Court settlements can be declared executable. Regulation 44/2001 defines as public documents, those bearing the following three characteristics: 1) there is participation, during their issuance, of a public or other authority from the country of issuance, which participation also constitutes a verification of their validity, 2) the documents are genuine not only as to the signature but also as to their content and 3) they are executable in the member-state where they were issued. In this sense, public documents according to the Regulation are documents in the issuance of which there is participation from public officers, court secretaries, notaries, etc.

The only reason of no recognition or enforcement of foreign judgments, according to the Regulation, is their contradiction to the public order of the member-state where they will be enforced. However, this reason can only be examined after the filing of a relevant motion and not *sua sponte*. It must be noted that the Regulation is stricted on this issue from the Greek *Laqos*, since it requires that the public order be contradicted "obviously" by the execution or recognition of the subject judgment.

Contrary to what Greek laws mandated, the Regulation for the recognition of foreign judgments allows judgments that are not or cannot be final, such as preliminary decisions or decisions of evidentiary nature. Furthermore, the judgment must be issued in the name of a member-state. Therefore, decisions of an arbitrator or a tax, customs or administrative authority cannot be enforced. Finally it is worth noting that according to the Regulation, the court of the country where the judgment is sought to be executed may even consider a decision that has not been properly served "unless the defendant omitted to file an appeal against the decision, when he could have done so in his home country". The authors of the Regulation deemed that a formal discrepancy in service of process cannot lead to the rejection of the recognition or enforcement, if said discrepancy had not obstructed the debtor from securing his defense.

It is also worth considering that the Regulation does not allow the judge of the country where enforcement is sought to check the jurisdiction of the Courts of the country of origin of the foreign judgment, unlike what Geek laws mandate.

6.3 Judicial and Extrajudicial Documents Abroad- Hague Convention

On February 10, 1960, the International Hague Convention came into force, according to which the contracting countries regulated the process to be followed regarding service of judicial and extrajudicial documents in civil and commercial matters between parties residing in these countries. According to the Hague Convention, each contracting country is obliged to appoint a competent Authority, which will receive requests for service from other contracting countries and will implement them according to Articles 3-6 of the Hague Convention. According to Article 3 of the Hague Convention, the Authority or Court employee that issued the documents to be serviced, forwards to the competent Authority a request for service, with two copies of the document to be served attached. According to Articles 4 and 5, the competent Authority, upon receiving the relevant petition, checks it to determine whether the conditions set by the Hague Convention are met. In the event that they have not, it is under an obligation to notify the petitioner and state its objections regarding the request.

In the event, however, that the conditions are met, the competent Authority will serve the relevant document, either itself or via an authorized employee or agency a) either by following the method set by its internal Laws regarding service of documents in judicial or extrajudicial cases within the country's borders, or b) by a specific method requested by the petitioner, unless this method is contrary to the laws of the Country where the document is sent. The same conditions apply regarding service of both judicial and extrajudicial documents that have been prepared by Authorities and Court employees of one of the contracting countries.

Today, the countries that have signed or subsequently accepted the Hague Convention, are the following: Albania, Argentina, Bellarus, Belgium, Bosnia Herzegovina, Boulgaria, Canada, China, Croatia, Cyprus, Tsech Republic, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Hungary, Island, India, Irland, Israel, Italy, Japan, Korea, Latvia, Lithouania, Louxembourg, Mexiko, Monaco, The Netherlands, Norway, Polland, Portugal, Romania, Russia, Slovakia, Slovenia, Spain, Sri Lanka, Sweden, Switzerland, F.Y.R.O.M., Turkey, Ukraine, United Kingdom, U.S.A., Venezouela, Antigua, Bahamas, Barbeidos, Botswana, Kouweit, Malawi, Pakistan, San Marino, Seyhelles, and The Grenadines.

Concurrently with the above Convention, on May 31, 2001, the European Union Regulation No. 1348/2000 of the E.U. Council came into affect for the E.U. Members, regarding service of judicial and extrajudicial documents on civil and commercial matters within the E.U. members' borders. The aforementioned Regulation includes provisions similar to those of the Hague Convention regarding the service of judicial and extrajudicial documents.

Based on these two important legislative efforts, the process of serving the relevant documents upon individuals residing abroad in a manner deemed lawful for the authorities of the State where the case is pending, has been simplified significantly.

7. Greek Citizenship – Greek Passports

Many people of Greek origin that reside abroad are interested in acquiring Greek citizenship and procuring a Greek passport. The Greek passport allows the holder to reside and work in all the countries of the European Union. A Greek passport can be issued only for a Greek citizen who is registered with a Greek Municipality. Therefore, it is necessary that the person interested in acquiring Greek citizenship proceed first with the recognition of his/her Greek citizenship and his /her registration with a Greek Municipality; then he/she can also proceed with the issuance of a Greek passport and/or an identity card.

According to Greek Law (Article 1 of the Greek Nationality Code), the child of a Greek male or female obtains the Greek nationality at birth. By virtue of this article, every person can be registered as a Greek citizen if his/her ancestors or one of them was a Greek citizen, provided that the person requesting the Greek citizenship follows the procedure required by Greek Law in order to prove the Greek citizenship of his/her ancestors and the sequence of Greek origin (*ius sanguinis*).

The first step for the recognition of the Greek nationality is to locate the registration of one of the ancestors with the Greek Municipal Rolls or the Greek Male Rolls. When the person locates the registration of one of his/her ancestors, he/she should procure a relevant certificate and proceed with the application for the recognition of his nationality. All the certificates of marriages and births that took place abroad and have not been registered in Greece should be registered with the Greek Special Registry. For this purpose, original certificates are required that should be Apostilled according to the Hague Convention or in the event that the country of their issuance is not a party to the Convention, they should be authenticated by the competent Greek Consulate. In case that there is a Divorce, the relevant judgment should be recognized as valid in Greece through the relevant Greek Court procedure.

The application for the recognition of Greek nationality as well as the certificates issued by the Special Registry should be submitted to the Municipality with which the ancestor of the applicant is registered. The competent Authority for the recognition of Greek nationality is the Region (*Perifereia*); the region issues the decision recognizing the Greek nationality of the applicant and orders his/her registration with the Greek Municipal Rolls. Men must be registered with the Greek Male Rolls; this registration is completed after the issuance of a relevant Decision of the competent Prefecture and after the submission of additional certificates issued by the Consulate of his place of residence.

The registration with the Greek Municipal Rolls and the Greek Male Rolls concludes the procedure of the recognition of Greek nationality: the person is a Greek citizen registered with a Greek Municipality. The Municipality issues a certificate, which certifies that the person is a Greek citizen; this certificate is necessary for the issuance of a Greek identity card and/or a Greek passport.

After the registration with a Greek Municipality and the issuance of a Greek passport, the person obtains officially the Greek citizenship and all the rights of a Greek citizen. That means that the person has all the rights of a citizen of the

European Union and he/she can enter, reside and work in all the countries of the European Union.

The procedure for the recognition of Greek nationality includes many different stages and may require different documentation and actions depending on the specific case's particulars. For the prompt and successful completion of the case, a thorough knowledge of the required procedure as well as a frequent communication with the competent Greek Authorities is required.

All the above procedures for the recognition of the Greek citizenship and the issuance of a Greek passport, can be accomplished through a limited Power of Attorney to specialized Greek lawyers, like our Greek Law Firm.

8. Power of Attorney in Greece

The power of attorney is the power to represent and it is conferred by the relevant legal transaction. With the power of attorney, which is based on the will of the represented, the grantee may attempt legal transactions for the grantor of the power of attorney.

The power of attorney in Greece is granted by unilateral transaction without the need of the grantee's acceptance, which is required to be addressed to the grantee. He who grants the power of attorney in Greece must have legal capacity to carry out legal transactions.

The declaration is subject to the form required for the completion of the transaction to which the power of attorney refers. This form is understood to be a notarial deed or a private document.

There is the general power of attorney and the special (limited) power of attorney. Their distinction rises from the power given to the grantee. The general power of attorney in Greece is referred to any legal transaction, whereas the special power of attorney in Greece is referred to a specific type of action.

The institution of the power of attorney aims to serve the need for convenience and speed of the transactions with the representatives, in order to protect third parties who act in good faith.

It is worth mentioning that although the power of attorney in Greece aims to serve the need for convenience, it may be at the same time a dangerous document as it gives liberty to act in any way and there is danger for the grantor to be bound by the actions of the grantee if misused.

By law, the power of attorney in Greece does not have a time bar limitation, but there may be one if the grantor expressly states it. Therefore, if the power of attorney is given for unlimited time, this power will be preserved until the occurrence of an occasion which ends the grantor's and grantee's relationship, for instance revocation or discontinuance. However, if there is a time bar, then the discontinuance occurs after the lapse of the time.

From the Article 223 of the Greek Civil Code, it is presumed that if it is concluded that the grantor's will was for the power of attorney to exist and after his death, then it is considered that the power is granted by the heirs of the grantor.

The grantor of the power of attorney may renounce it as it is a right and not an obligation.

A power of attorney in Greece may cease through revocation. The revocation occurs with a declaration to the grantee. If the power is given by a notarial deed, then it is only revoked by the same form.

Waiver from the right to revoke is void as the power of attorney's purpose is solely to serve the representative's interest.

The irrevocable power of attorney may be revoked if there is serious ground and it is concluded to be ceased.

The power of attorney ceases with the grantor's or the grantee's death or his lack of legal capacity to carry out legal transactions.

Article 303 of the Greek Civil Code grants the obligation to render account. Therefore, if the grantee of the power of attorney has the management of the grantor's case, so far as such management entails collection of money and payment of expenditure, he is bound to accounting.

The Greek Law Firm of **JOHN TRIPIDAKIS & Associates** Greek Inheritances, Estates & Real Estate Specialists



Why us

- Tradition and quality
- High skilled personnel
- Deep legal expertise
- Multi-level legal services, yet cost effectiveness and promptness
- High professionalism
- Reasonable Lawyers' Fees
- International clients

We can entirely assist you with all the above procedures and relevant legal issues in Greece, by contacting us in Australia.

Call for a free initial consultation: 0402 751 102, or

e-mail us at: info@greeklawyersonline.gr

“The content of this legal guide do not constitute legal advice and under no circumstances should they be considered as such, until our office is retained and has reviewed the complete file of the client’s case.”

Copyright 1997-2010 The Law Firm of John M. Tripidakis. All rights reserved.

