

NEWSLETTER – JUNE 2023

About ECOVIS



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During the months of May and June, Greece experienced two national election rounds, capturing the attention of the public and dominating the news. Nevertheless, several significant developments took place during this period that impacted businesses, individuals, and real estate matters. Some of the most noteworthy ones are as follows:

The adoption of Regulation (EU) 2023/1114 on Markets in Crypto-Assets ("MiCAR"), establishing an overall framework for markets in crypto-assets within the Union

The MiCAR regulation is considered to be the most advanced legislation on crypto-assets not just in European continent but on a global scale. The new regulation establishes a comprehensive framework for the prudential and conduct regulation of crypto-asset issuers, offerors, and service providers. It grants supervisory authorities' extensive regulatory powers to maintain financial stability in the face of the inherent market volatility of crypto-assets.

Following the September 2020 of the European Commission Digital Finance Package (ECDFP), **MiCAR constitutes a crucial part of the ECDFP application and it aims to achieve the following below objectives.** Firstly, it seeks to enhance Europe's competitiveness and innovation in the financial sector. Secondly, it aims to expand the range of financial services and modern payment solutions which are available to consumers and businesses. Lastly, it strives to ensure consumer protection and maintain financial stability.

The MiCAR regulation supports innovation, promotes fair competition, endeavours to safeguard the interests of retail holders and maintain the integrity of crypto-asset markets. Consequently, it is expected to facilitate the scaling up of cross-border operations for crypto-asset service providers and streamline their access to banking services, thereby enabling smooth and efficient business activities.

Changes introduced by the new Immigration Code

The newly enacted Law No. 5038/2023, also known as the "Immigration Code," has introduced substantial changes to the legal framework governing immigration following the codification and revision of existing provisions, as well as the introduction of new ones. The codification process was deemed necessary due to the subsequent amendments made to individual provisions and the implementation of regulatory acts following the coming into force of Law 4251/2014 on Immigration and Social Integration.

The new Immigration Code encompasses several significant amendments, as well as new provisions, including the following below:

Provisions on the "EU Blue Card"

Article 28 of the new Immigration Code incorporates the Directive 2021/1883 on the "EU Blue Card" for highly qualified employees and updates provisions to align with EU law. This particular provision applies to third-country nationals who seek admission or have already been admitted to Greece for the purpose of highly qualified employment.

Under this provision, a third-country national applying for an EU Blue Card is required to present a valid employment contract related to highly qualified employment in Greece. The contract should have a minimum duration of six (6) months and demonstrate that the individual's gross salary meets or exceeds the national minimum wage for highly qualified employment.

Furthermore, after residing legally as an EU Blue Card holder in another EU Member State for a period of twelve (12) months, a third-country national is eligible to enter, reside, and work in Greece for highly qualified employment based on the EU Blue Card. The individual needs to hold a valid travel document during this process.

These provisions ensure that highly qualified third-country nationals have the opportunity to work in Greece under the EU Blue Card scheme, facilitating their legal employment and contributing to the country's skilled workforce.

Digital nomads (residence title "Z1")

Following the Immigration Code of the Article 68, kindly refer to the related Consular Office which is responsible for the issuance of a National Visa to self-employed, freelance, or employed third-country nationals who engage in remote work using Information and Communication Technologies (ICT) and are commonly known as digital nomads. This visa allows them to reside in Greece for a period of up to twelve (12) months.

The National Visa is granted to individuals who have a dependent employment agreement, services agreement, or contracting agreement with employers or customers located outside Greece. These individuals have the flexibility to perform their work remotely, providing their services from a distance.

Moreover, the family members of digital nomads may also accompany them during their stay in Greece. These family members can apply for an individual visa that has the same duration as the visa granted to the digital nomad.

At the same time, individuals who are currently lawfully present in Greece, whether holding a C Visa, residence permit, or a valid passport, have the opportunity to apply for a Digital Nomad Residence Permit from within the country. **This means that eligible individuals who are already in Greece can take advantage of this new permit category without the need to leave the country to initiate the application process.** This provision allows for a streamlined application process and provides an opportunity for those already present in Greece to transition to the Digital Nomad Residence Permit status without disruption.

The provisions set out in Article 68 aim to facilitate the entry and residence of digital nomads in Greece, recognizing their unique work arrangements and enabling them to pursue their professional activities while being accompanied by their family members.

Managerial personnel (residence permit type "B3")

As per the Article 98 of the Immigration Code, a residence permit can be granted to certain categories of third-country nationals who hold positions in domestic companies or branches of foreign companies conducting legal commercial activities in Greece. This provision applies to individuals who serve as members of Boards of Directors, legal representatives, or managers of these entities.

To qualify for the residence permit, the aforementioned individuals must meet specific criteria. Firstly, they should not receive any form of remuneration for their services. Additionally, in the case of legal representatives of branches of foreign companies, the company must have a minimum asset value or turnover of at least four million euros (€4,000,000.00) based on latest closed fiscal period.

The Article 98 intends to facilitate the residence of key personnel in companies operating in Greece, including individuals who contribute to the management and decision-making processes. By granting residence permits to these individuals, the Immigration Code aims to support and attract foreign investment, thereby contributing to the growth and development of the Greek economy.

Notably, as of 1 January 2024, individuals who currently hold expiring work permits for managerial personnel have the option to renew their permit or apply for either an EU Blue Card or an Intra-Corporate Transfer Permit, provided they meet the eligibility criteria outlined in the new requirements. Those who meet the eligibility criteria can choose the most suitable permit for their situation.

On the other hand, individuals who currently hold an expiring work permit for managerial personnel but do not meet the new eligibility criteria are able only to apply for an EU Blue Card or an Intra-Corporate Transfer Permit subject that they meet the respective eligibility criteria for those permits. In such cases, these alternative permits offer a range of possible options for their continued employment in Greece.

Provision of technical support

Under the new regulations, Greek companies that have qualifying contracts with foreign companies for the provision of technical support, such as telecommunication companies, will no longer be eligible to utilize the two-stage Special Purpose

route to apply for residence permits for eligible employees.

Instead, these companies will be required to hire these employees under the three-stage dependent employment route. This means that the Greek company will need to follow the standard process for hiring foreign employees, which typically involves obtaining a work permit, followed by a residence permit for employment purposes.

The change aims to align the procedures for hiring eligible employees with the standard framework for dependent employment in Greece. By transitioning to the three-stage dependent employment route, the intention is to streamline the process and ensure consistency across different sectors and industries.

It is important for Greek companies in these circumstances are able to adhere to the updated regulations and fulfil the necessary requirements for hiring foreign employees under the new framework.

"Dependent" employment (i.e., blue-collar work)

Under the new Immigration Code, there will be amendments to the process of the work permit applications filed by employers who hire third-country nationals as "dependent" employees, specifically referring to blue-collar workers. These changes aim to streamline and modernize the application process.

Previously, the immigration authorities were issuing pre-approval for work permits and before sending it to the relevant employer or the relevant consulate via courier. Under the new system, however, the pre-approval will be issued electronically based on applicable quotas. It will then be sent to the Greek consulate in the applicant's country of citizenship or residence. Subsequently, the consulate will issue the applicant a visa.

It is important to note that while the process for obtaining pre-approval is subject to change in the future, the other stages in the work permit application process for these employees will remain unchanged. This means that they will still be subject to quotas established by the Act of the Ministerial Council and will need to apply for a residence permit upon their arrival in Greece.

The intention behind these amendments is to introduce a more efficient and streamlined process for work permit applications, leveraging electronic means and improving coordination between the immigration authorities and consulates.

Financial and real estate investments ("Golden Visa" - residence permit type "B4" and "B5")

Articles 99 and 100 of the Immigration Code provide a pathway for granting a residence permit to third-country nationals who have made financial or real estate investments in Greece. Effective from 1 January 2023, specific criteria and requirements apply, especially in designated areas.

For the Regional Units of the North, Central, and South Sectors of Athens and the Municipality of Vari-Voula-Vouliagmeni in the Region of Attica, the Municipality of Thessaloniki in the Region of Central Macedonia, and the Regional Units of Mykonos and Santorini in the Region of South Aegean, the minimum value of the real estate at the time of acquisition is set at five hundred thousand euros (€500,000.00). The entire amount must be paid in full before applying for the investor's permanent residence permit.

This provision encourages foreign individuals to make substantial investments in real estate within these designated areas, contributing to their development and economic growth. By fulfilling the specified financial criteria, eligible third-country nationals can obtain a residence permit that grants them the right to reside in Greece as investors.

Changes as being introduced by recent Law No. 5036/2023 regarding the transfer of real estate, the modernization of the relevant procedure and reporting formalities.

Various amendments effected in May 2023 brought changes in real estate matters, aiming at facilitating the transfer of property in Greece. The most important new developments in this respect can be summarized as follows:

Abolishment of purchaser's joint liability for ENFIA (Uniform Real Estate Property Tax), as well as for gift and/or inheritance tax liability

As was the case until now, the purchaser was jointly liable with the seller for the payment of the seller's past tax liabilities, including annual ENFIA and gift and/or inheritance tax associated with the real estate being acquired. With the enactment of the new law, the purchaser is no longer held jointly liable for these tax obligations. This change aims to reduce delays in real estate transactions, with the relevant provisions applying to real estate transfers that took place from the date of the law's publication, which is 28 March 2023.

Changes to tax clearance certificate issuance for sellers with tax debts

If taxpayers have entered a tax debt settlement scheme or have outstanding debts that are not yet due or are suspended, they now have the right to obtain a tax clearance certificate with a maximum validity period of one month. In the case of real property transfers for consideration, the tax clearance certificate specifies the amounts that should be withheld

from the purchase price.

Specifically for the transfer of real property for consideration, the tax clearance certificate provides that the following below amounts should be withheld from the purchase price:

Type of tax debts	Percentage to be withheld from the purchase amount
Tax debts under a settlement scheme	70% of the purchase price and up to the amount of the total tax debts*
Tax debts under suspension over 50.000 EUR	50% of the purchase price and up to the amount of the total tax debts*
Both of the above types of tax debts	The amount to be withheld shall be calculated in accordance with the objective value and shall not exceed the purchase amount.**

* To the extent that the purchase price is not lower than the property's objective value.

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The determination of the percentages to be withheld in the case of debts from inheritance, parental benefit, and donation tax, which have not yet become overdue, may be made through a collaborative decision involving the Minister of Finance and the Governor of the Independent Authority for Public Revenue (IAPR).

Changes to the content and other formalities of the ENFIA clearance certificate

Modifications have been implemented regarding the content and formalities of the ENFIA clearance certificate. The aim of these changes is to streamline and expedite real estate transfers where a monetary transaction is involved. Previously, such transfers often faced delays or even cancellations if the seller had outstanding ENFIA tax debts that remained unresolved or unpaid.

Under the new regime, the content of the ENFIA certificate has been redefined to accommodate these situations more efficiently. This revision aims to remove obstacles that hindered the smooth progress of real estate transactions in the past. By addressing the issue of outstanding ENFIA tax debts, the updated certificate aims to facilitate a more seamless transfer process, ensuring that these debts do not impede or complicate the transaction.

Disconnection of the ENFIA certificate from the payment of the tax

Effective from 1 June 2023, there have been changes regarding the requirement to certify the payment of taxes due on properties to be transferred with the ENFIA certificate. Specifically, the obligation to certify the payment of taxes for the property being transferred has been abolished. Instead, the ENFIA clearance certificate will now only confirm that the specific property

being transferred has been included in the taxpayer's ENFIA return for the five years preceding the transfer. This update applies to the transfer deeds or the establishment of property rights for consideration.

In cases where the current year's ENFIA assessment has already been issued, the certificate will cover the last six years leading up to the transfer. It is important to note that any certificates issued prior to these changes will remain valid until the end of May 2023. These modifications aim to simplify the process of property transfers by focusing on the reporting of the relevant property in the ENFIA return, rather than certifying the payment of taxes for all of the taxpayer's real properties.

Conclusion of a transfer deed prior to the repayment of ENFIA

In addition to the previous changes, it is now possible to complete the transfer deed before fully repaying the ENFIA tax associated with the specific property, provided certain conditions are met. The ENFIA certificate must explicitly state the total amount of ENFIA tax and any accrued interests owed for the property in question.

Upon the execution of the transfer deed, the notary overseeing the transaction is obligated to remit the specified amount within three working days. Failure to comply with this requirement would render the deed null and void. This provision aims to ensure that the outstanding ENFIA tax and related interests are promptly settled after the property transfer, even if the full payment has not been made prior to the deed's execution.

ENFIA certificate for acceptance of inheritance

When it comes to deeds for accepting inheritance rights, the issuance of the ENFIA certificate is subject to certain conditions. Specifically, **the certificate is provided under the condition that the ENFIA tax for the years when the deceased individual was liable has been paid in full according to the percentage and right inherited. Alternatively, if a lawful exemption applies, the certificate may be issued even if the ENFIA tax has not been settled.**

In the case of accepting inheritance rights, the ENFIA certificate serves as proof that the necessary tax obligations related to the deceased person's ENFIA liabilities have been fulfilled. It ensures that the inheritor has either paid the required ENFIA tax amount or is eligible for an exemption as provided by the law. These conditions help to establish the proper fulfillment of ENFIA tax responsibilities before accepting inheritance rights.

Extension of the reductions applied for the calculation of the principal tax for 2023.

Properties located in tax zones 2 and 3, which were introduced starting from January 1, 2022, will be subject

to the principal tax rates associated with tax zones 1 and 2, resulting in reduced principal ENFIA tax for the year 2023. However, this applies under specific conditions that need to be met.

Amendments concerning the Article 105 certificate and the withholding of inheritance/gift tax due.

Under the new regulations, the obligation for notaries to attach the ENFIA certificate to a contract of real property transfer or creation of rights in rem for consideration is abolished in cases where the property was acquired through death, donation, or parental gift. Instead, it is now sufficient for the deed to explicitly state that the applicable inheritance, gift, or parental benefit tax return has been filed.

This change aims to simplify the documentation process for property transfers in these specific cases. By eliminating the requirement to attach the ENFIA certificate, the administrative burden on notaries and property owners is reduced. **Even so, it is important to ensure that the relevant tax return has been filed and complies with the applicable tax regulations.**

Additionally, in the mentioned cases of property acquisition through death, donation, or parental gift, the notary's obligation to withhold taxes from the sale price and refund them to the State is also abolished. This implies that the responsibility for settling any taxes due from these transactions rests with the parties involved, rather than the notary.

Automatic and digital update of the E9 property data return

According to the updated regulations, the process of uploading the transfer deed to the electronic application called "myPROPERTY" by the notary will now automatically and digitally update the property data return (E9). This means that the parties involved in the transaction will be relieved of the obligation to manually update the property data return themselves.

The "myPROPERTY" application serves as a centralized platform for managing property-related information. Further details regarding the functioning of the application and its launch date are expected to be provided through a decision made by the Governor of the Independent Authority for Public Revenue (IAPR).

Amendments to the E9 property data returns until 30 June 2023 without penalties


Specifically for the tax year 2023, certain changes have been put in place:

1. Amendments to E9 returns can be made until the 30 June 2023, without facing fines or penalties for late filing.

2. ENFIA payments can be made in installments, with the deadline set at the end of February.
3. The mandatory tax administration audit for amending ENFIA returns resulting in a tax reduction of over €300 is abolished as of 28 March 2023.

Abbreviations

ECDFP: European Digital Finance Package Commission
MiCAR: Markets in Crypto-Assets Regulation
ICT: Information and Communication Technologies
ENFIA: Uniform Real Estate Property Tax
IAPR: Independent Authority for Public Revenue



ECOVIS Hellas Ltd., a member of Ecovis International, is a company of accountants, tax consultants and business advisors, based in Athens, Greece. We offer extensive tax, accounting, financial, and business consulting services of the highest standard to a wide range of local and international businesses.

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