



20.12.2023

NOTICE TO MEMBERS

Subject: Petition No 0208/2023 by Panagiotis Leliatsos (Greek), on behalf of the Nemesis Hellenic Consumers Association, regarding an alleged breach of EU rules concerning prudential requirements for credit institutions in Greece and in Ireland

1. Summary of petition

The petitioner expresses concern at the alleged failure of EU, Greek and Irish supervisory bodies to uncover a concealed financial scandal involving tax evasion and possible money laundering. It appears that the financial conditions imposed on Greece from 2009 onwards have led to a rapid increase in non-performing loans, as well as the securitisation and transfer of these loans to private investors. The Greek Government provided guarantees of up to EUR 18.5 billion to foreign companies for the issue of bonds available to investors. The petitioner maintains that most of these foreign companies are based in Dublin, belonging to Ireland's International Financial Services Centre, where they are subject to a special tax regime, not declared to any tax or supervisory authority and not required to hold a licence from the Irish central bank or keep tax records. He expresses concern that management companies are able to enforce decisions and dispose of assets without being held in any way accountable to the relevant national or EU authorities. He regards this as a breach of EU provisions on management of the transfer and securitisation of non-performing loans and is accordingly seeking action by the Commission to ensure compliance with the relevant legislation.

2. Admissibility

Declared admissible on 2 June 2023. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 20 December 2023

The Commission's observations

As a legacy of the deep economic crisis, a large stock of non-performing loans (NPLs) were on Greek banks' balance sheets. Active management of these loans and sale to non-bank financial institutions specialised in the acquisition and management of non-performing loans' (i.e. credit servicers) has enabled Greek banks to reduce their stock of NPLs and to resume the normal provision of credit to the real economy, necessary to boost growth and employment.

Greek law 4354/2015 sets the legislative framework for companies that acquire or manage claims from non-performing loans originally granted by a Greek credit institution, including incorporation and licensing requirements. Under this law, transferred claims of NPL loans are managed by NPL claim management companies¹ licensed and supervised by the Bank of Greece. These companies have to apply high professional standards and are subject to a strict regulatory framework in their relationship with debtors. Moreover, these entities are obliged to abide by the same Code of Conduct as credit institutions in their dealings with debtors. The Bank of Greece is competent to ensure compliance with the provisions² of the law.

The supervision of credit servicers' operations and the application of related legal safeguards under national and EU law falls under the competence of national authorities. Additional safeguards³ under Union law (namely Directives 2008/48/EC⁴, 2014/17/EU⁵ and 2021/2167/EU⁶), when transposed into Greek law, ensure a fair treatment of borrowers and requires that the transfer of creditor rights does not change the level of consumer protection⁷. They also require adequate policies and procedures from creditors to exercise reasonable forbearance measures before foreclosure proceedings are initiated. Member States may introduce more stringent provisions to protect consumers.

At the same time, the European Commission has and will continue to actively bring forward legislative proposals the objective of which is to tackle tax avoidance and tax evasion. Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation (DAC)⁸ provides a common legal framework that facilitates administrative cooperation and exchange of information by Member States, to tackle tax avoidance and tax evasion. Since 2017, and by way of Council Directive 2014/107/EU (DAC2)⁹, Member States exchange information on certain financial assets and accounts held by non-residents. This cooperation and exchange of information has been reinforced by Council Directive (EU) 2018/822 (DAC6)¹⁰, which since July 2020 requires intermediaries to report potentially aggressive cross-border tax-planning arrangements. These provisions cover an important array of potential tax avoidance schemes and enable the Member States to implement actions, on the

¹ According to law 4354/2015, NPL claims management companies may be based in Greece or in a Member State of the European Economic Area, acting in Greece through a local branch.

² This includes e.g. the power to withdraw the NPL claim management company's license if the company is used for money laundering proceeds from criminal activities.

³ Article 28 of the Mortgage Credit directive (Directive 2014/17/EU; OJ L 60, 28.2.2014, p. 34–85), as it has been recently amended by the Non-Performing Loans Directive (Directive (EU) 2021/2167; OJ L 438, 8.12.2021, p. 1–37).

⁴ OJ L 133, 22.5.2008, p. 66–92

⁵ OJ L 60, 28.2.2014, p. 34–85

⁶ OJ L 438, 8.12.2021, p. 1–37

⁷ Articles 10–12 of the Non-Performing Loans Directive (Directive (EU) 2021/2167; OJ L 438, 8.12.2021, p. 1–37).

⁸ OJ L 64, 11.3.2011, p. 1–12

⁹ OJ L 359, 16.12.2014, p. 1–29

¹⁰ OJ L 139, 5.6.2018, p. 1–13

basis of the information received, to identify and address tax avoidance.

Conclusion

Greek law 4354/2015 sets the legislative framework for companies that acquire or manage claims from non-performing loans originally granted by a Greek credit institution, including incorporation and licensing requirements, as well as a strict regulatory framework in their relationship with debtors. Additional safeguards under Union law, when transposed into Greek law, ensure a fair treatment of borrowers and require that the transfer of creditor rights does not change the level of consumer protection. At the same time, the European Commission has and will continue to actively bring forward legislative proposals the objective of which is to tackle tax avoidance and tax evasion. This includes a common legal framework that facilitates administrative cooperation and exchange of information by Member States, and legal provisions which cover an important array of potential tax avoidance schemes and enable the Member States to implement actions, and on the basis of the information received, to identify and address tax avoidance. Ultimately, supervision of credit servicers' operations, the application of related legal safeguards under national and EU law and the tax treatment of related transactions fall under the competence of national authorities.