

Name of the country: **Greece**

Transposition act = Greek national transposition law of the recast EWC Directive 2009/38/EC

**1. Presence of legally based administrative or judicial conflict solving procedures for:**

	No	Yes	Unclear	brief explanation	DR	RP
A		Yes			X	
B		Yes			X	
C					X	
D			Unclear		X	

**2. Litigation on different sets of rights: presence of national provisions**

	No	Yes	Which authority (e.g., court) is competent <sup>1</sup>	DR	RP
A		Art. 73 of the EWC Act: "Any employer or person acting on behalf of or any third party performs acts or omissions with a view to obstructing the exercise of the rights of the employees' representatives arising	<p>In Greece the appeal court is the Irinodikio, i.e. a Small Claims Court (also referred to as a Magistrates Court or Court of the Peace), which is a district civil court (see European Judicial Network in Civil and Commercial Matters, available at: <a href="http://ec.europa.eu/civiljustice/jurisdiction_courts/jurisdiction_courts_gre_en.htm">http://ec.europa.eu/civiljustice/jurisdiction_courts/jurisdiction_courts_gre_en.htm</a>); 1). It must be emphasised, however, that reference to the Irinodikio is not part of the statutory binding text, but is made in the explanatory comments included in the Presidential Decree. Since, for instance, civil courts in Greece perform the role of general courts, this category could be considered as overlapping with the category grouping countries in which civil courts are competent (see below).</p> <p>The basic rule of territorial jurisdiction The court in the region of which the defendant has their domicile has territorial jurisdiction.</p> <p>If the defendant does not have their domicile either in Greece or abroad, the court in the region of which they have their residence has jurisdiction. If the defendant's place of residence is unknown, the court in the region of which they had their last domicile in</p>	X	

<sup>1</sup> Material and geographical competence.



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		under this Act shall be punishable (...)"	Greece, or their last residence in the absence of a domicile, has jurisdiction. <sup>2</sup>  The State falls under the jurisdiction of the court in the region where the particular authority is seated that is called upon by law to represent the State in court.		
B	Operation of the EWC: breaches and compliance with the law (statutes), agreement or Subsidiary Requirements	Yes	Legal persons with the capacity to be parties to a legal case fall under the jurisdiction of the court in the region of which their registered office or branch is situated, where the dispute relates to its operation.	X	
C	Challenging management on the use of confidentiality and secrecy/with holding information)	Yes	Article 62 + Article 72 of the EWC Act. Article 72 (application of Articles 8(2) and 11 paragraph 3) 1. The members of the ERC and the central administration <b>may decide jointly on the elements of information to be provided to third parties</b> in accordance with Article 62. (...) 3. In case of disagreement between the central administration and the ERC as to the provision of the requested information, the provisions of the Article 16(8) and (9) of Law No. 1264/1982 (A - 79).  By implication: Art. 18.1 alinea 2 of the refers to provisions of the Act on Works Councils N° 1767/88 Art. 16 of the Act 1264 of 1982: Para 8. If there is a confidentiality dispute the competent labour inspector shall produce a reasoned decision ruling on the matter within ten days from the date on which the employer or the trade union contacts him. Where the employer does not comply with the inspector's decision, a fine ranging from GRD 5000 to GRD 100,000 will be imposed for each infringement of the provisions of this Article and for every refusal by the employer to comply, payable to the Workers' Welfare Centre	X	
E	Individual rights of the SNB/EWC members under	Yes		X	

Commented [RJP 1]: EWCs are not considered 3rd parties.

<sup>2</sup> [https://e-justice.europa.eu/85/EN/which\\_country\\_s\\_court\\_is\\_responsible?GREECE&member=1](https://e-justice.europa.eu/85/EN/which_country_s_court_is_responsible?GREECE&member=1)



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	national EWC legislation				
F	(Others to be filled in)				X

### 3. Capacity to act in court

		Brief explanation/ differences for 2A-2F above)	DR	RP
1	Who/which body can start a judicial procedure?	EWC (collectively) <sup>3</sup>	X	X
2	What legal status (ius standi) is a requirement to start a judicial procedure? (legal personality, capacity to act in courts, other forms?)		X	X
3	What is the legal status of the EWC (legal personality or other capacity to act in court)?	EWC collectively has legal capacity	X	X
4	In case of lacking capacity to act in court: how can it be circumvented (think of representation by trade unions)?	Due to some legal discussions about the legal status of EWC members individually and EWC collectively, some Greek experts were recommending (apparently to some it is unclear whether according to the Greek laws, the EWC members or the EWC as a collective body have explicitly legal personality) EWCs could attempt the solution of approaching courts as an 'association', which according to article 69 of the Greek Code of Civil Procedure (Kodika Politikis Dikonomias) has such competence		X
5	Who represents the EWC in law?			
6	What is the capacity to act in court of joint type ('forum' or French-type) EWCs composed of both management and employees' representatives and can it be an obstacle?	No reference/mention	X	X

### 4. Starting a procedure and timelines

		Brief explanation	DR	RP
1	Does the law set conditions as to how the EWC can take a valid		X	

<sup>3</sup> European Commission 2018: 58. Also, on the basis of Art. 72 para 3 of the EWC Act: "In case of disagreement between the central administration and the ERC as to the provision of the requested information, the provisions of the Article 16(8) and (9) of Law No. 16(8) and (9). 1264/1982 (A - 79)."



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	decision on entering a judicial procedure? Think of voting, quorum, the necessity of a physical meeting to take a decision,...			
1.a	Does the law contain any requirements on the internal rules concerning question 1?		X	
2	How does one file a case in court? (Who, format, steps)	To initiate a court case, an application must be submitted to the registry of the competent court. To draw up the action, the person concerned should contact a lawyer, who will submit it to the registry of the competent court. There are no special forms for bringing actions. The file includes the action, where necessary (it is not mandatory for district civil courts and precautionary measures) and where the written evidence is submitted by the party to the case.	X	X
3	What is the deadline to start a judicial procedure?	There are different limitation periods for bringing a court action depending on the case. Details on limitation regarding bringing a court action can be provided by a legal advisor or a citizens advice office. <sup>4</sup>	X	X
4	Are there other relevant deadlines in the judicial procedure?	The date of hearing of the action is set by the registry of the competent court and the party to the case is summoned to each subsequent session of the court or each act taken in the course of the case. Any party to the case has the right to expedite the hearing. Guidance is also given by the authorised lawyer.	X	X
5	What is the role of out of court settlements once a case has been filed?	Arbitration is possible. See point 7 below.	X	X
6	How long does a judicial procedure typically take?			X
7	Is an injunction or a summary procedure possible?	unclear	X	X

## 5. Costs

		Brief explanation	DR	RP
1	What are the court fees for a judicial procedure?	Court charges are paid as follows: The party to the case should cover the relevant costs and charges. Thus, the claimant should pay for the stamp duty, the court stamp duty and the fees for various funds (e.g. Lawyers'	X	X

<sup>4</sup> [https://e-justice.europa.eu/34/EN/how\\_to\\_bring\\_a\\_case\\_to\\_court?GREECE&member=1](https://e-justice.europa.eu/34/EN/how_to_bring_a_case_to_court?GREECE&member=1)



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		Fund [TN], Athens Lawyers' Welfare Fund [TPDA], etc.), which are paid when the action is lodged. When and how the lawyer is to be paid is agreed with the party to the case. <sup>5</sup>		
2	Is legal representation by a lawyer required in a judicial procedure?	The action must be brought by a lawyer, except in the following cases: (1) cases brought before a district civil court (Irinodikio), (2) provisional remedies, (3) to prevent an imminent danger (Article 94(2) of the Code of Civil Procedure), and (4) labour proceedings conducted before the single-bench court of first instance (Monomelos Protodikio) or the district civil court (Article 665(1) of the Code of Civil Procedure). As a general rule, therefore, a legal representative should be present. There are certain procedures, e.g. provisional remedies, minor disputes, labour disputes, etc., in which the person concerned may appear on their own behalf. <sup>6</sup>  Finally, as regards all the questions, the presence of a lawyer is mandatory at a second-instance court, i.e. court of appeal, even if the presence of a legal representative was not mandatory at the above-mentioned first-instance courts in these particular cases (question one). Naturally, this also applies to cases brought before the Hellenic Supreme Civil and Criminal Court (Arios Pagos).	X	X
3	Who pays the costs for:	Only a general statement on operational costs. European Commission (2018) does not consider EWCs to have access to financial means for legal action (p. 58): The EWC members shall have the necessary means to exercise their rights under the transposition Article 64 (2012)		
	- Legal expert		X	X
	- Court fees		X	X
	- Other costs (travel/interpretation)		X	X
4	Does a EWC normally have an independent budget and/or an own bank account under a given national legislation?	No	X	X

<sup>5</sup> [https://e-justice.europa.eu/34/EN/how\\_to\\_bring\\_a\\_case\\_to\\_court?GREECE&member=1](https://e-justice.europa.eu/34/EN/how_to_bring_a_case_to_court?GREECE&member=1)

<sup>6</sup> [https://e-justice.europa.eu/34/EN/how\\_to\\_bring\\_a\\_case\\_to\\_court?GREECE&member=1](https://e-justice.europa.eu/34/EN/how_to_bring_a_case_to_court?GREECE&member=1)



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5	Can the EWC be sentenced to pay the costs of the other party in the judicial procedure?	Yes	X	X
6	Can the EWC <i>members</i> be sentenced to pay the costs of the other party in the judicial procedure?		X	X

## 6. Sanctions

		Brief explanation	DR	RP
	How is a breach of law classified?	Criminal offence <sup>7</sup>		
1	What are the sanctions for breaches of EWC laws?	Criminal and administrative sanction Imprisonment up to 2 years and an administrative fine between EUR 300 and EUR 50 000 <sup>8</sup>	X	
2	Can the court rule to stop or reverse the companies' decision-making?	Unclear, but seems yes	X	X
3	Whom should fines be paid to?	In cases of infringement of confidentiality provisions by the employer to the Workers' Welfare Centre	X	X
4	Can a member of management be held personally liable (personal vs. corporate liability)?	yes <sup>9</sup>	X	X
5	Can individual EWC members be sentenced to pay fines or be subject to other sanctions?	yes <sup>10</sup>	X	X
6	Can the EWC collectively be sentenced to pay fines or be subject to other sanctions?	yes	X	X

## 7. Out of court settlements

		Brief explanation	DR	RP
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<sup>7</sup> European Commission 2018: 35.

<sup>8</sup> provided for in Articles 23 and 24 of Law No. 3996/2011 (A 170). Competent body for the imposition of these administrative sanctions is the Labour Inspectorate (S.E.P.E.). In the past, fines for labour law infringements were the responsibility of the Labour Inspectors. Labour Inspectors used to be officials of the Ministry of Labour. For a short period only, in 1994-1995, they were part of the regional/local self-governing authorities (Prefectural Self-Governing Authority). The Greek transposition of Directive 94/45/EC equipped the then newly created (1994) prefectures with the competence to adjudicate in the case of conflicts concerning EWCs. The specific unit within prefectures was the Prefectural Self-Governing Authority acting as the first instance 'court'. Parties on which any penalties were imposed by the prefectural authority could seek an appeal at the Magistrate's Court (Irinodikio). Under the transposition of the recast Directive 2009/38/EC labour inspectors have the right to determine the fines for breaking the labour law in general, including the EWC law. They belong to a separate body under the control of the Ministry of Labour.

<sup>9</sup> Art. 73 of the EWC act.

<sup>10</sup> Inferred on the basis of Art. 73 of the EWC act.



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1.	In general, are alternative conflict resolutions available in a given country can out of court settlements be reached once a case has been filed? Does it happen in practice?	<p>The only ADR mechanism which can be considered operative in Greece is arbitration.</p> <p>The European Commission's SWD (2018) reports no ADR mechanisms available to EWCS <b>However, there is contrary evidence, see below:</b></p> <p>The mediation procedure may cover existing or future civil and commercial disputes of a national or cross-border nature, provided that the parties concerned have the authority to settle the subject-matter of the dispute in accordance with the provisions of substantive law.<sup>11</sup></p> <p>Recourse to mediation for the disputes laid down in Law 4640/2019 is allowed in the following cases:</p> <p>if the parties agree to use mediation after the dispute has arisen;  if the parties are called upon to have recourse to mediation and consent to it;  if the recourse to mediation is ordered by a judicial authority of another Member State and such recourse does not affect morality and public order;  if the recourse to the mediation procedure is required by law;  if there is a mediation clause in a written agreement between the parties.</p> <p>The parties appear in the mediation procedure together with their legal representative, except in consumer disputes and minor disputes, where the personal appearance of the parties is allowed. A third party may also participate in the procedure, if this is deemed necessary, in agreement with the parties and the mediator.</p> <p>- A mediator is appointed by the parties or a third party chosen by all the parties, including the mediation centres. There is one mediator, unless the parties agree in writing that there will be more than one.</p> <p>- If the dispute is brought before the courts or becomes subject to arbitration, the mediator, the parties, their legal representatives and those who have participated in any way in the mediation procedure will not be examined as witnesses and are prevented from presenting information arising from the mediation procedure or relating to it, and</p>	X	X
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<sup>11</sup> [https://e-justice.europa.eu/64/EN/mediation\\_in\\_eu\\_countries?GREECE&member=1](https://e-justice.europa.eu/64/EN/mediation_in_eu_countries?GREECE&member=1)



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		<p>specifically from referring to the discussions, statements and proposals of the parties, as well as to the views of the mediator, unless this is required for reasons of public order, mainly to ensure the protection of minors or to avoid any risk of damage to the physical integrity or mental health of a person.</p> <p><b>What is the cost of mediation?</b></p> <p>The remuneration of the mediator is freely set by means of a written agreement between the mediator and the parties.</p> <p>If there is no written agreement, the remuneration of the mediator is set as follows: (a) in cases where mediation is mandatory, the party seeking mediation pays the mediator in advance the amount of EUR 50.00 as a fee for the mandatory initial session. This amount is borne by the parties equally. If the dispute is brought before a court, the party to the dispute who did not appear in the mediation procedure, even though they were legally summoned for this purpose, or who did not pay the amount due to the mediator for the mandatory initial hearing, will be ordered under Articles 176 ff. of the Code of Civil Procedure to pay in full the amount paid for the mandatory initial session by the party seeking mediation. This amount is considered as court costs regardless of the outcome of the trial; (b) for each hour of mediation after the mandatory initial hearing, the minimum fee is set at EUR 80.00 and is borne equally by the parties. The mediator must provide parties with full information on how he or she is remunerated.</p> <p>Is it possible to enforce a mediated agreement ?</p> <p>After mediation, a mediation record is signed by the mediator, the parties and their legal representatives. If mediation fails, the mediation record may be signed by the mediator alone. Either party may submit the record of the agreement at any time to the registry of the court having subject-matter and territorial jurisdiction and in which the trial of the case is pending or is to be introduced. After the mediation record is deposited with the court, an action for the same dispute is inadmissible in so far as its subject matter is covered by the agreement between the parties, and any pending trial will be terminated.<sup>12</sup></p>	
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<sup>12</sup> [https://e-justice.europa.eu/64/EN/mediation\\_in\\_eu\\_countries?GREECE&member=1](https://e-justice.europa.eu/64/EN/mediation_in_eu_countries?GREECE&member=1)



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## 8. Resources for EWCs

		Brief explanation	DR	RP
1.	Can unions provide legal support or financing for litigation?	yes		X
2.	What other resources are available in terms of legal support to EWCs and/or EWC members in your country (e.g., Arbeiterkammer, legal support centres)			X



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