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Recent National Legal Developments-Greece
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A. Legislative Developments: No significant legislative initiatives in the field of environmental protection were introduced last year.

B. Jurisprudential Developments:

1. Decisions 549/2015, 551/2015, 217/2016, 218/2016 of the Greek Council of State on a Mining Project in Chalkidiki (Northern Greece) [the so called "Skouries Case"]. The decisions concerned an environmental permit issued in 2011 for a composite mining project encompassing the existing mine in Mavres Petres, a new open-pit and an underground mine in Skouries, an underground mine in Olymbiada, a copper gold metallurgy plant, a sulphuric acid plant and four tailing disposal and storage sites. Local communities in the vicinity of the project and people working in the tourism sector or in other economic activities strongly opposed the mining project and submitted petitions for the annulment of the environmental permit claiming thereby violations of the environmental legislation. In line with the relevant decision in 2013 (1492/2013), the Council of State ruled that the EIA Study on which the permit was based, satisfied the relevant standards, as the impacts of the project on the various eco-systems (e.g forests, water bodies, protected habitats) had been meticulously assessed and the necessary measures for the limitation of their consequences were foreseen (Decision 549/2015, 551/2015). Moreover, the Court ruled that the fact that no other alternatives, except for the zero alternative, had been examined for the exploitation area of the extended ore deposits, does not exert influence on the validity of the environmental permit, as such an approach was in line with the Relevant Directions of both the European Policy for the utilization of the mineral wealth and those of the Special Framework of Spatial Planning for Industrial Activities and the permit can simultaneously ensure the protection of the environment through the use of the BATs (Decision 549/2015, para.9). Furthermore, the Court ruled that the choice of the relevant metallurgical method ("Flash smelting"), one of the most contested issues, was sufficiently justified within the framework of the EIA Study. Subsequently, the Court rejected the plea of the petitioners that the environmental permit was invalid, because the EIA Study did not satisfy the requirements of the EU and national EIA legislation and violated Article 24 of the Constitution. Furthermore, the Council of State (Decisions 217/2016, 218/2016) annulled the relevant Decision of the Minister for Environment and Energy which revoked the approval of certain technical studies for the specific mining installations for reasons relating mainly to the choice of the metallurgical method, by ruling that the justification for the revocation of the license related to issues which

had already been resolved in previous judicial decisions. While the local opposition remains vivid, the company (Eldorado Gold) resumed the operation of the mining sites after a short interruption.

2. Decision 3944/2015 of the Council of State: The case which was brought to Court after two petitions for annulment were submitted and more specifically the first by the Athens Bar Association¹ and the second by an environmental NGO, concerned the validity of a JMD, which set the framework for the rather unconditional concession of the foreshores and backshores to the municipalities in the whole Greek territory. It should be mentioned that as the JMD constitutes a regulatory administrative act, it can be admissibly challenged before the Council of State (e.g the Supreme Administrative Court). The Court interpreted the relevant legislative provisions for the concession of the simple use of the foreshore and the backshore (Articles 13 and 15 of the Law 2971/2001), in the light of the constitutional protection attributed to them as elements of the environment (Article 24) and their subsequent recognition as fragile ecosystems (Council of State Decisions 2713/2013, 4542/2009, 2506/2002). Furthermore, the Court also interpreted the relevant provisions in the light of the provisions of the Protocol for the Integrated Coastal Zone Management adopted within the framework of the Barcelona Convention, to which the EU acceded by the 2009/98 Council Decision, and sets a comprehensive framework for the sustainable management of the coastal zones, taking also into consideration the fragile nature of the coastal eco-systems (paras.8,9). Departing from the above-mentioned assumptions, the Court ruled that the relevant legislative provisions for the concession of the simple use of the foreshore and the backshore have the meaning *that such a concession of the simple use for activities of low intensity which are also compatible with the specific nature of the coastal eco-systems and their classification as "common goods", can be permissible only when it is realized after an administrative review on an individual basis and is accompanied by the setting of the relevant conditions and limitations, so that the specific characteristics of the concrete coastal eco-system can also be taken into account (para 12). Furthermore, departing from the above-described interpretation of the relevant legislative provisions which delegated regulatory power to the administration for their specification, the Court annulled the JMD which set the framework for the concession of the simple use of the foreshore and the backshore to the municipalities on the grounds that it exceeds the relevant limits of the delegated regulatory competence provided by the relevant Law (2971/2001).*

3) Decision 3943/2013 of the Council of State on the Asopos Case: The Asopos River is an important natural watercourse, which covers an area of 450 km² (the districts of East Attica and Viotia) and has a total length of 57 kl. About 11 municipalities and a population of 70.000 people approximately are residing in the broader river area (Kountouri, 2013, p. 26). This broader area is

¹ It is worth mentioning that since the early seventies the Council of State recognized the legal interest of the Bar Associations to challenge before the Court any administrative act or omission relating to the protection of the environment, as this issue was regarded among those for which the Bar Associations within their broader function as scientific associations are entitled to take legal action. (Decisions 4576/1977, 2320/2014, 2257/2014).

the largest industrial area of Greece, as 1.300 industries, including metal processing and food industries, are located. Over the years, the river has been subject to an intense pollution arising mainly from unregulated or ill-regulated industrial activities and from agricultural activities (Kountouri, 2013, p. 30 et.seq). Local residents alerted by the serious implications on the public health formed organized groups aiming at exercising pressure on the State to implement the relevant legislation. Moreover, several scientific studies concerning both the impacts of the pollution on the human health and the environment and the measures for dealing with the problem had also been carried out. In this context, several residents of the broader Asopos area submitted a petition for annulment against the omission of the administration to take the necessary measures for addressing the problem involving more specifically the issuance of an environmental permit for a “Central Unit for the treatment of industrial sewage of the Asopos area” and the accompanying works, the designation of a Managing Body for this Unit and the issuance of a Presidential Decree for the classification of the river basin district of the stream of the Asopos River as a Zone of Special Environmental Aids, as set in Article 23 of the Law 1650/1986. The Court based its ruling on the findings of the relevant scientific studies, according to which the quality of the water bodies of the Asopos river was substantially deteriorated over the years, so that besides the damage caused to the environment, a direct danger for the human health of the residents also exists, underlying the urgent need for restoration measures. Furthermore, the Court also took into consideration the recent legislative developments (e.g. those after the submission of the petition for annulment²) that aimed to address the problem³. In this context, the Court ruled that the administration has the obligation without any further delay to take the following measures: a) to revoke the licences of those industrial facilities that are not equipped with waste treatment systems and those which do not comply with the relevant conditions of the environmental permit as regards waste treatment b) to solve the general problem of waste treatment of the industrial facilities in the area either by constructing a Central Unit for waste treatment or choosing any other equivalent option, taking also the relevant studies into consideration and c) to take the necessary measures for the restoration of the river eco-system, among which is also the issuance of the Presidential Decree for the classification of the river basin district of the stream of the Asopos River as a Zone of Special Environmental Aids.

² The petition was submitted to the Council of State in 2009.

³ The most significant legislative response to the Asopos Case constitutes the issuance of the Ministerial Decision 20488/2010 “Establishment of Environmental Quality Standards in Asopos River and Emission Limit Values for Liquid Industrial Waste in the Asopos River Basin”. The above mentioned MD abolished the relevant MD, by which Asopos was designated as a disposal pipeline for industrial waste and stipulated further that the relevant permits provided the disposal of industrial sewage into the river were not valid, so that existing industrial installations had to submit an application for the renewal of their environmental permits within a set deadline (Koundouri, 2013, p.30).

4) Decision 3139/2015 of the Council of State: In line with its previous jurisprudence (Decisions 2636/2009-Plenary, 2727/2014, 4243/2014), the Court ruled that the supplementations or modifications of the EIA Study, which take place after the Study was made publicly known and the relevant public consultation procedures had been completed, do not exert influence on the validity of the environmental permit only to the extent that they constitute insignificant modifications relating to punctual improvements or specifications of individualized issues which do not exert influence on the basic assumptions of the EIA Study.

Literature

Koundouri Phoebe et al, Introducing the Case Study, the Asopos River in Greece in: Ph. Koundouri/N. Papandreou (Eds.), *Water Resource Management Sustaining Socio-economic Welfare-The Implementation of the European Water Framework Directive in Asopos River Basin in Greece*, Springer 2013, p. 25-48.