

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
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Meeting: 1186 meeting (3-5 December 2013) (DH)

Item reference: Action report (01/11/2013)

Communication from Greece concerning the case of Zolotas (No. 2) against Greece (Application No. 66610/09)

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Réunion : 1186 réunion (3-5 décembre 2013) (DH)

Référence du point : Bilan d'action

Communication de la Grèce concernant l'affaire Zolotas (n° 2) contre Grèce (requête n° 66610/09)
(*anglais uniquement*).



Execution of the judgment of the Court of 29 January 2013

Zolotas v. Greece (No 2) (application No. 66610/09)

In respect to the above mentioned judgment the Hellenic Government would like to put under the consideration of the Committee of Ministers the following as regards the execution of the above mentioned judgment:

I. General measures

1. Legislative measures

The legal framework governing dormant deposit accounts with credit institutions operating in Greece has been reformed.

More specifically, on 29 April 2013 came into force law 4151/2013 "Arrangements amending and improving pension related, fiscal, administrative and other provisions of the Ministry of Finance (Official Gazette issue A' No. 103/29.4.2013).

The provisions of Chapter B of this law (articles 6 - 10) amend legislative decree 1195/1942 and establish an automated procedure requiring credit institutions to take specific action to deal with dormant deposit accounts held with them, including monitoring compliance with and implementation of these provisions.

Article 7 of law 4151/2013 defines that 'dormant deposit account' means an account on which no actual transaction by depositors has been recorded for a period of 20 years from the day following the last transaction.

According to article 8 paragraph 1 of the same law, every credit institution is required to notify the beneficiary of a potentially dormant account several times before the expiry of the 20-year period that the balance account will be statute

barred for the benefit of the Greek State twenty years from the day following the last transaction.

The first notification to the beneficiary and the co-beneficiaries, as they appear in the bank account, must be made after the lapse of five (5) years from the last transaction. Such notification must be made by letter with acknowledgment of receipt, subject to the condition that the cost of such notification does not exceed the balance of the account. In case of a lower balance, such notification is made by ordinary mail.

A second and third notification is required by the same provision for deposited amounts in excess of EUR 100. These notifications are made by letter with acknowledgment of receipt after the lapse of ten (10) and fifteen (15) years from the last transaction, respectively.

Upon the lapse of fifteen (15) years or upon the third notification, the credit institutions are required to create a specific registry which will comprise the particulars of these accounts. At least one further notification is required before the completion of the 20-year time period. The beneficiaries/co-beneficiaries and their legal heirs have access to this registry. The registry is finalized upon the lapse of 20 years and is at the disposal of the supervising authorities and public controlling institutions for ten (10) more years.

According to articles 6 and 8 paragraph 2 of law 4151/2013, once the rights of the depositors or their legal heirs have lapsed (have been statute barred), the balance of a dormant account is transferred to the Greek State. It is clarified in article 8 paragraph 2 that the accruing of interest as well as its capitalization do not constitute a transaction in the meaning of article 7 and do not interrupt statute barring.

According to article 8 paragraph 3, every credit institution which operates in Greece must transfer to the State the aggregate balance on any time-barred dormant deposit accounts, including any interest, by the end of April of each year. Such transfers are made to a specific account held with the bank of Greece. The credit institution must also notify the General Accounting Office (GAO) and the

General Directorate of Public Property of the Ministry of Finance. The credit institution must notify the concerned beneficiaries or heirs as regards the transfer of the relevant amounts, after the lapse of the 20-year time period, if it is asked to.

According to article 8 paragraphs 4 and 6, the amounts transferred pursuant to the above mentioned procedure are registered as revenue to the state budget. The Minister of Finance is to inform the Parliament by a specific annual report in respect to the amounts deriving from dormant accounts.

Moreover, according to article 9 of the same law, the Bank of Greece is assigned supervisory tasks related to the application of these provisions. Such tasks include supervision of proper compliance by credit institutions with their obligations and imposing the necessary sanctions for breaches. In addition, within the first two months of every year the Bank of Greece is required to submit to the GAO a list of all credit institutions operating in Greece. The Minister for Finance may ask the Bank of Greece to carry out ad hoc inspections, whenever necessary, to confirm correct application of these provisions.

Finally, article 10 of law 4151/2013 stipulates that as of the publication of the law in the Official Gazette the provisions of articles 3, 6b and 7 of the legislative decree 1195/1942, were abolished.

It should be noted that specific mention is made in the explanatory report of law 4151/2013 that the provisions referred to above, have been adopted in order to comply with the judgment of the Court of 29 January 2013. In the same report is also stressed that the general aim of the law is to clarify that the money on dormant deposit accounts after the 20-year lapse of the rights of beneficiaries and their heirs may be used to fund State protection of vulnerable social groups.

In adopting these provisions the Greek legislator has acted with the aim of ensuring that a fair balance is struck between general interest considerations underlying the statute-barring and the protection of beneficiaries' property rights, as enshrined in national and international legislation. Relevant arrangements in other

Member States to the EU as well as the relevant national legislation and well established case law on statute-barring, have been taken into account.

The Hellenic Government are of the view that the above mentioned legislative measures are in full compliance with the judgment of the Court of 29 January 2013, *Zolotas v. Greece* (application No. 66610/09) and constitute thorough execution thereof as regards the adoption of general measures.

2. Publication

The judgment of the Court has been translated into Greek and the translation has been published on the website of the State Legal Council (www.nsk.gov.gr)

3. Dissemination

By separate letter the Agent's Office transmitted the judgment to the Ministries concerned (Ministry of Finance and Ministry of Justice, Transparency and Human Rights) and to the Bank of Greece, explaining the findings of the judgement, for dissemination to the competent judicial authorities, the relevant services of the Ministry of Finance and the credit institutions operating in Greece.

II. Conclusion

The Hellenic Government are of the view that the above mentioned general measures are in full compliance with the judgment of the Court of 29 January 2013, *Zolotas v. Greece* (No 2) (application No. 66610/09) and constitute thorough execution thereof as regards the adoption of general measures.