

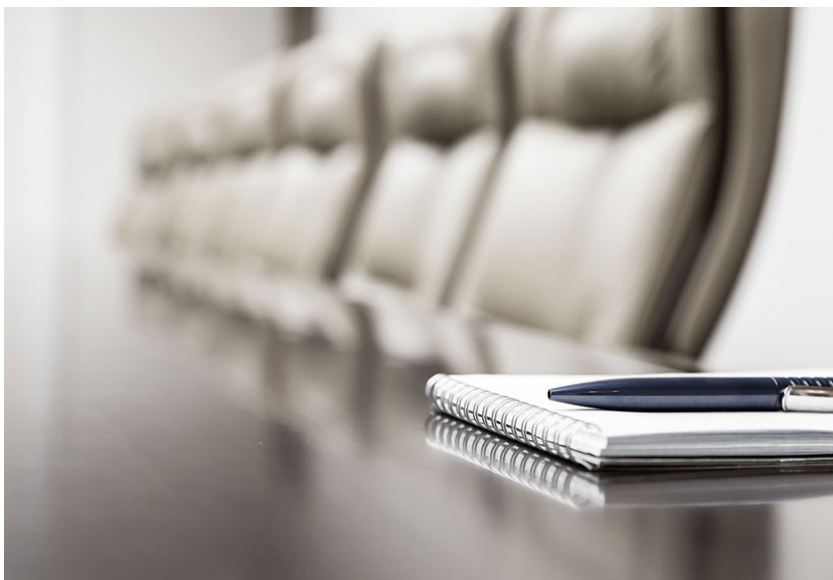
Welcome to our Newsletter

Our Law Offices specialize in providing legal services to Greek expatriates abroad as well as to foreigners living in Greece.

Our team consists of highly skilled lawyers with postgraduate studies and professional experience in the United States, Greece, France and Great Britain. Attorneys and Fulbright scholars **Evdoxia Nastou** and **Kalliopi Petzetaki** are members of both the Athens and New York Bar Associations while attorney **Effie Spilioti** is included in the list of lawyers of the U.S. Embassy in Athens that are designated to assist U.S. citizens seeking advice with their legal matters in Greece.

Greek law can often be complicated, especially to those who have lived abroad. The purpose of our newsletter is to provide information to our readers. In each issue, we will review legal issues that are of a general interest.

For any further information that you might need, contact us at info@spnlaw.gr.



In This Issue:

- **Family Law**: An overview of the child adoption process in Greece
- **Property Law** :
- Is it against the law to keep pets on your property?
- Joint ownership of real estate in Greece: Rights and Obligations of Owners
- **Business Law**: The setting up of a branch of a foreign company in Greece



Family Law: An overview of the child adoption process in Greece

What types of adoption are there in Greece?

The adoption process in Greece can be categorized as follows : a) **public adoption** and b) **private adoption**, depending on whether the adoptive parents adopt a child from local public orphanages or not. Both private and public adoptions are regulated by the Greek Civil Code and Law no. 2447/1996 as supplemented by Law no. 4538/2018. The time frame for public adoptions is approximately five years while that for private adoptions is considerably shorter. A separate type of adoption process is that provided for **intercountry adoptions**, where a child from another country is adopted according to a special set of procedures. It should be noted that Greece is among the signatory countries to the 1993 *Hague Convention On Protection of Children and Co- Operation in Respect of Intercountry Adoption*, a Convention which aims at facilitating adoption between the signatory countries and sets forth special procedures applied to inter-country adoptions.

What are the legal requirements for child adoption?

In Greece, there are no private adoption agencies, and adoptions take place with the assistance of a lawyer. The following basic requirements apply to private and public adoptions of minors that take place in Greece:

- The adoptive parent must be a resident of Greece, between 30 and 60 years old and 18- 50 years older than the child. (*In exceptional cases, the age difference could be less*);
- The adoptive parent could be married or single;
- The religion of the adoptive parent is irrelevant in this process;
- The adoptive parent (s) must prove financial stability;
- Before the adoption is finalized, the adoptive parent (s) will be subject to an extensive evaluation carried out by the Social Services and a report will be issued that will be presented to the Court and
- The consent of the parents of the child is also needed. If the child is under judicial supervision or under the authority of a social service agency, then the supervisor or the agency will provide this consent. If the parents of the child are unknown, then the Court decides upon proceeding without this consent. For children up to 12 years old, it is not necessary to receive the consent of the child.

What will the Court take into consideration in order to approve an adoption?

In order for an adoption to be approved, the Court will take into account: (a) the Social Services report and (b) the extent to which the adoption will be of benefit to the child. It should also be noted that the Court proceedings are secret. When the adopted person is of 18 years old, he/she retains the right to be informed of the identity of the birth parents from all official authorities.

Family Law :

An overview of the child adoption process in Greece

What is the legal relationship between the child and the adoptive parents?

After the final decision is issued, the legal bond of the child to the natural parents ceases to exist and the child has all the rights as a child born by the adoptive parents. The natural parents do not have the right to communicate with the child. Furthermore, the child takes on the surname of the adoptive parents. However, the child retains the right to add on the name of the natural parents when it becomes of legal age.

What is the difference between adoption and foster care («αναδοχή») in Greece?

Adoption should be differentiated from taking a child into foster care, where there is no legal bond established between the foster parents and the child. Such procedures are regulated by Greek Presidential Decree 86/2009 along with other recent legislation which set forth the following requirements:

- The foster parent(s) can be an individual, a married couple or the partners (even of the same sex) of a civil partnership agreement;
- The foster parents need to meet the age requirements of adoptive parents as stated above;
- The foster parents must be of stable mental and physical health and not have been convicted of certain crimes;
- The foster parents must be able to meet the financial requirements of fostering a child;
- An evaluation of the foster parents will be carried out by the Social Services and a report will be issued;
- A court decision allowing the foster care must be issued only in certain cases and
- The personal data of the foster family, the birth parents, the child and the Organization that is assisting in the foster care will be registered with the National Foster Care Registrar .

The Greek State provides for a monthly financial assistance for families that foster children, necessary to sustain their basic needs. Although foster care is considered to serve as a temporary placement, it has been noticed that quite often the children remain with the foster family for years and are even adopted eventually by the foster families.

The Prefecture of Attica (or any other Prefecture competent for the area where the foster parents live) can provide more information about the Greek public orphanages that participate in such programs. It should also be noted that nowadays many non-governmental agencies have foster care programs for those interested, such as, for instance, for the foster care of child refugees.

Property Law and Joint Ownership of Real Estate in Greece: Rights and Obligations of Co-Owners

Joint ownership of property (the collective ownership of property by two or more persons) is common in Greece and quite often a cause of conflict among co-owners. We all have known of instances where families or former spouses were not able to agree on the management of jointly owned real estate in Greece. The following is an overview of the rights and obligations in joint ownership:

Rights and Obligations

In the case of joint ownership, first of all, each co-owner has the right to freely use the property. If one co-owner is in any way obstructed in his/her rights to use the property by another **(such as if prohibited to enter the commonly owned property or if one of the co-owners proceeds to rent the property)**, the one who is obstructed is entitled to compensation. Furthermore, each co-owner also has the right to sell or lease his/her share in the joint ownership in Greece, without the consent of the other co-owners. Joint ownership creates certain obligations as well: each co-owner is liable for the payment of debts arising from the joint property, such as the payment of expenses for its maintenance according to the percentage of ownership in the jointly owned property.

What do we mean by the term “administration” of jointly owed property?

The administration of the joint real estate property refers to the management of this property. According to Greek law, co-owners are liable to each other for actions related to the management of the common property.

What if the co-owners do not agree on the management of the commonly owned property?

Greek law provides that the majority of co-owners can decide upon the management of the property and no consensus regarding the management of common property has to be reached. An often misconception is that the majority is created on the basis of the number of joint owners, whereas, in fact, the crucial point is the share percentage of each co-owner in the property. In any case, if urgent circumstances arise that could damage the property, each co-owner may take necessary actions without obtaining the consent of the other co-owners.

In the event of disputes that cannot be resolved on the basis of the majority rule, each co-owner retains the right to file a petition before the Courts regarding the most appropriate way to manage the property and/or to appoint an administrator that will manage the property. The administrator can be a co-owner or a third party.

Is it possible for a co-owner to request the termination of the co-ownership?

In such a case, each co-owner is entitled to petition before the Court and request the liquidation of the co-ownership. His/her share of co-ownership on the property is irrelevant. There are two types of distribution that can take place:

- (a) extra-judicially, in the case that all the co-owners agree upon the distribution or
- (b) in case of disagreement, by virtue of a Court decision that will order the sale of the common property through auction. The Court will decide upon the most appropriate means of distribution so that the value of the property is not reduced; the Court is not bound by the claims of the co-owners. In cases of auction, the amount received by the auction is distributed among the owners according to the percentage of their property shares.

Domestic Companion Animals: How does the law protect pet-owners?

Keeping domestic companion animals on private premises, whether it be apartments or detached houses, is a common cause of dispute among co-owners and neighbors.

Quite frequently we have been asked whether it is allowed to keep pets in flats especially when the Common Regulations of an apartment building («Κανονισμός Πολυκατοικίας»), which regulate the joint responsibilities of all co-owners and the use of common areas, state that no pets are allowed on the premises.

Greek legislation does not permit that the Common Regulations of an Apartment Building restrict the number of pets allowed to be kept in an apartment, to less than two (2).

What are the requirements?

Law n. 4039/2012 regarding domestic and stray companion animals as well as Law n. 4235/2014 set forth the following requirements for keeping pets in buildings that consist of two or more apartments: 1. Pets must permanently reside within the apartments with their owners and not in open areas i.e. balconies 2. Pets must be microchipped, registered and must have had their health status verified in their health booklet by a licensed veterinarian and 3. Health regulations must be abided.

What are the restrictions?

The Common Regulations of the building can limit the number of pets kept to no less than two per flat. Nevertheless, this applies only with respect to cats and dogs and not to other types of companion animals. Furthermore, according to the aforementioned law, these restrictions apply only to apartments in buildings and not to detached houses. Therefore, residents of detached houses may keep more than two cats and/or dogs that have been microchipped and properly registered.

The above law does not allow for pets to be permanently kept in the external common areas of the building. (entrance area of a building, garden, roof etc).

It should be noted that regardless of whether a pet is kept in an apartment of a building or in a detached house, rules of hygiene and respect of common quiet hours must be adhered to.



Business Law: Setting up of a branch of a foreign company in Greece

In recent years with the rise of investment opportunities in Greece especially in the fields of energy and property, many have shown an interest in setting up a branch of their foreign –based company in Greece. It should always be noted that, before deciding upon the establishment of a branch of a foreign company in Greece, it is recommended to explore with a certified Greek accountant all possible tax issues that will arise in order to decide upon the most appropriate local structure for your company. The following refers to the legal documents that will be required during this process.

1. Resolution of the company to establish a Greek branch. The resolution must also refer to the purpose(work) of the company, the registered address and the name of the branch to be established;
2. Articles of Association of the company, as currently in force bearing the seal of the competent authority of the place where it is seated;
3. A certificate issued by the competent authority at the place where your company is seated, attesting that the company has not been dissolved, nor has its license to operate been revoked;
4. Certificate regarding the representation of the company issued by the competent authority at the place where the company is seated (ID information of the representatives);
5. The registration number of the company at its corporate seat;
6. A certificate issued by the competent authority at the place where the company is seated, regarding the paid up capital of your company;
7. A Power of Attorney (PoA) in the form of notarial deed appointing the representative and process agent (that will receive the company's mail) in Greece;
8. A certificate from the Chamber of Commerce for the pre-check of the name and distinctive title of the branch.

The above PoA and the process agent of the company must reside in Greece and must also submit the following:

- a)In case of EU citizens: a certified copy of ID/Passport or
- b)In the case of Non EU citizens, a certified copy of the person's residence permit for the purpose of independent financial activity or of a residence permit as Manager of a Greek Ltd or as a legal representative or member of the BoD of a Greek joint stock company.

Finally, it should be noted that the above documentation issued abroad must bear an apostille seal or bear the seal of the Greek consulate and must be accompanied by a certified Greek translation.



Law Offices of Spilioti, Petzetaki & Nastou

7 Vissarionos Str.

10672 Athens, Greece

info@splaw.gr

(+30) 210 9836676

www.splaw.gr

Disclaimer: *This newsletter provides general information and its content should not be construed as legal advice and/or an establishment of a lawyer-client relationship. Professional advice should therefore be sought before any action is undertaken based on the information provided in this newsletter.*