

SEAFARER SUBJECT GUIDE

USING LAWYERS IN GREECE

This Guide deals in general terms with using lawyers in Greece. It aims to help a seafarer understand the legal profession in Greece, and how to select, engage and if need be, change his lawyer.

This Guide does not however constitute specific legal advice in relation to the use of any particular lawyer. If a seafarer is dissatisfied with his lawyer, he is strongly advised to consult another lawyer qualified to practise in Greece.

1. What is the structure of the legal profession?

- 1.1. A lawyer must be a graduate of a Law School. A person is appointed as a lawyer after having successfully completed an eighteen month supervised training period at a law office consisting of more experienced lawyers, and upon passing the bar examinations organized by the bar association to which they belong. The field of specialty of a lawyer stems not only from his post-graduate studies, but also from the nature of the clients or the years of practice in a specific field of law. The most basic categorization is between lawyers who deal with civil cases and those who undertake criminal cases. Each of these categories has several sub-categories.
- 1.2. Lawyers are eligible to litigate before the criminal, civil and administrative courts of Greece, irrespectively of their bar membership. They are divided into three grades, depending on their experience and the court they attend. Upon entering the bar, they are entitled to appear only before the Court of First Instance. After four years of experience, they are eligible to be promoted to lawyers appearing before the Court of Appeal. After a further four years of experience, they are eligible to appear before the Supreme Courts. The promotions are regulated by the board of directors of the bar association.
- 1.3. Lawyers dealing with seafarer claims are specialised in maritime law. They are based almost exclusively in Piraeus, which is the biggest of the Greek ports, and cover cases arising in other ports by collaborating with local lawyers around Greece. They deal with any kind of seafarers claims: wages, overtime, pay leave, compensation for termination of contract, compensation for moral damages, accidents and so on. They may also handle the criminal defence of seafarers for simple criminal cases (for example, marine pollution), though for serious legal charges they usually co-operate with criminal defence lawyers.

SEAFARER SUBJECT GUIDE

2. How is the legal profession regulated?

- 2.1. Lawyers form a professional body organized in local bar associations. Therefore, in the capital city of every prefecture there is a bar association which is usually subject to the local jurisdiction of the courts as per the specific prefecture. Every lawyer must be a member of a bar association.
- 2.2. Every lawyer is subject to the disciplinary rules of the council of every bar association.
- 2.3. Lawyers' private insurance against civil liability for the handling of a case is not very common in Greece.

3. How can a seafarer find a lawyer?

- 3.1 The usual way a foreign seafarer appoints a lawyer is by asking his union or the local ITF inspector. Another way is to ask his colleagues or the port authorities or his embassy or consulate.
- 3.2 Seafarers are advised to consult lawyers proposed by their unions and, in addition, always to take into consideration the reputation of the lawyers.
- 3.3 A seafarer may exceptionally be directed by his shipowner or the mortgagee bank of the ship to a specific law office, in which case the seafarer should proceed with extra caution, since there may be a risk of conflict of interests in using such a lawyer.

4. On what terms can a seafarer engage a lawyer?

- 4.1 An official letter signed by the seafarer is enough to appoint the lawyer of his choice to handle his civil case. In practice, the appointment may take place orally, and authorization is evidenced by the fact that the lawyer holds all the relevant documentation proving the claim of the seafarer.
- 4.2 In criminal cases, appointment of a lawyer is usually made with a rather formal authorization where seafarer's signature has been confirmed by a lawyer or a public authority.

SEAFARER SUBJECT GUIDE

- 4.3 Lawyers in Piraeus usually ask a seafarer to sign a standard form of authorization which authorizes the lawyer to handle the seafarer's case against a specific shipowner. The lawyer is then entitled to represent the seafarer before all Greek courts, except for the Supreme Court. The lawyer should provide a copy of the signed authorization to the seafarer.
- 4.4 In cases where a claim for a seafarer's wages may result in the auction of the ship, a special proxy before a notary public must be signed by the seafarer. The proxy is necessary for the lawyer to collect the amount due to the seafarer from the auction proceeds.
- 4.5 A special proxy is also required for the lawyer to appear and represent a seafarer before the Supreme Court (Arios Pagos).

5. How will a seafarer be charged fees by his lawyer?

- 5.1 The first meeting with the seafarer at the lawyer's office is rarely charged for. If the lawyer then proceeds with the case, typically the lawyer will charge the seafarer on the basis of a percentage of the total amount that is collected on behalf of the seafarer (on a no cure-no pay basis). The maximum percent allowed is 20%. As far as any court costs are concerned, these may be included in the 20%, or they may be paid over the 20% as soon as the lawyer collects the seafarer's monies. In both cases, the lawyer pays all court costs in advance. Occasionally, the lawyer may ask the seafarer to pay the court costs in advance; and, in that case, the lawyer returns the paid amount as soon as he collects the seafarer's monies.
- 5.2 Another method of charging is for the lawyer to charge the seafarer a fixed fee, which the lawyer estimates at an early stage of the case. Usually the seafarer pays a part of the fixed amount in advance and the rest is paid off gradually. This is the rule in criminal cases.
- 5.3 The payment of the lawyer in case of a settlement is also a matter for agreement. The most common choice is again payment by a percentage on the total amount of the settlement.

6. Can a seafarer get legal aid in a criminal case?

- 6.1 EU citizens and non – EU citizens, even if not residing in the EU, are entitled to legal aid in criminal cases, provided they have low incomes.

SEAFARER SUBJECT GUIDE

7. Can a seafarer get legal aid in a civil case?

- 7.1 Legal aid is available in civil cases; but only a seafarer who is a citizen of an EU member State or a non-EU citizen residing legally in the EU can apply if he lacks financial resources. In practice, legal aid rarely applies to seafarer claims because the Greek lawyers usually pay in advance for the court costs and collect their fees on the basis of a percentage of the claim (no cure-no pay).
- 7.2 If legal aid is applied for, then the applicant must file an application along with all relevant documentation proving poverty, before the presiding judge of the civil or criminal court, where the case is pending, and the relief is granted without great difficulty.

8. Can a seafarer get any other free legal advice?

- 8.1 A seafarer may get free legal advice from his union, the ITF inspectorate at the local port, and any officer of the local port authorities. Usually he could also apply for free legal advice to his embassy or consulate, which works closely with specific lawyers.

9. Can a seafarer sue his lawyer?

- 9.1 A lawyer may be sued by his seafarer before the competent three member Court of First Instance for mistrial. The seafarer must prove deceit or negligence on the part of the lawyer and the claim must be filed within 6 months from the day the act or omission was committed by the lawyer who caused the damage.

10. How can a seafarer complain about his lawyer?

- 10.1. If a complaint is filed for discipline and misconduct against a lawyer, this is heard before the First Instance Discipline Council, and if the lawyer is found guilty, he is entitled to appeal the decision, which is heard before the Appeal Discipline Council.

11. How can a seafarer change his lawyer?

- 11.1. A seafarer will simply have to tell to his lawyer that he wants to replace him without specifying the reason. If a written authorization was granted, then the seafarer should ask to get it back.

SEAFARER SUBJECT GUIDE

- 11.2. Provided that the lawyer is fully paid for his services and costs up to his replacement day, he will have to return to the seafarer the file of the case with all documents and get a receipt from the seafarer. If the seafarer refuses to pay his lawyer, the latter has the right to retain the file of the case in which case the seafarer may apply to the president of the bar who is entitled to demand that the lawyer hands the file to the seafarer even without previous payment.

12. Is a foreign seafarer treated differently?

- 12.1 Foreign seafarers are not treated differently to national seafarers. A seafarer does not have to offer counter-security in order for his case to be heard before the Greek Courts.

01 October 2012