

Corporate Law Briefing: Special Edition

Implementing the Digital Services Act in Greece: New Law 5099/2024

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A. Introduction

1. On 5 April 2024, the Greek Parliament adopted Law 5099/2024 (the **Law**) for the implementation of the EU Digital Services Act (**DSA**)¹ in Greece.
2. The DSA is a comprehensive framework regulating the provision of digital space services ‘for a safe, predictable and trusted online environment that facilitates innovation’ and respecting fundamental EU rights² including consumer protection³.
3. It introduces transparency and accountability for providers of intermediary services:
 - a. mere conduit services, consisting of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network;
 - b. caching services, consisting of the transmission in a communication network of information provided by a recipient of the service, involving the automatic, intermediate and temporary storage of that information, performed for the sole purpose of making the information's onward transmission to other recipients upon request more efficient; and
 - c. hosting services, consisting of the storage of information provided by and at the request of

¹ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on the single market for digital services and amending Directive 2000/31/EC

² Charter of Fundamental Rights of the European Union, OJ 326/26.10.2012, p.391

³ Article 1 par. 1 of DSA

a recipient of the services⁴.

4. The DSA therefore covers a wide range of providers such as online marketplaces, search engines, social networks and very large online platforms.
5. The obligations imposed depends on the category of providers, with very large online platforms and very large online service engines being subject to more demanding requirements.
6. All intermediary services offered to recipients that are either established or located in the EU fall within the scope of the DSA, irrespective of the jurisdiction in which the providers are established. The DSA therefore sets an international standard for the regulation of the respective services globally.
7. As an EU Regulation, the DSA already applies directly in EU Member States. However, it also provides for the adoption of certain measures by Member States to ensure implementation in each jurisdiction. Within this context, the Law was adopted to fully and effectively implement the DSA in Greece.

B. Competent Authorities

1. The DSA requires that Member States designate one or more competent authorities responsible for the supervision of intermediary services providers and the enforcement of the DSA. Among these authorities, one must be designated as the national Digital Services Coordinator, responsible for all matters relating to the supervision and enforcement that have not already been assigned to other authorities.
2. The Digital Services Coordinator is also responsible for the coordination of all competent authorities at a national level and for contributing to the supervision and enforcement of the DSA throughout the Union⁵.
3. The Law designates the Hellenic Telecommunications & Post Commission (EETT) as the Digital Services Coordinator in Greece. Other competent authorities responsible for the supervision of intermediary services providers and the enforcement of the DSA in Greece are the National Council for Radio and Television (NCRTV) and the Hellenic Data Protection Authority (HDPa).
4. More specifically, the Digital Services Coordinator has all the competences assigned to it by the DSA and its responsibilities include:
 - a. coordinating the supervision and enforcement of the DSA at a national level;
 - b. participating on the European Board for Digital Services with voting rights;
 - c. collaborating with the other competent Authorities designated by the Law and with other public authorities (including the Ministry of Development) for the exchange of information

⁴ Article 3(g) of DSA

⁵ Article 49 of DSA

- and data, exchange of opinions and assistance;
- d. collaborating with the European Board of Digital Services and the EU Commission;
 - e. performing audits and requesting information by providers of intermediary services and other persons;
 - f. taking necessary measures to ensure compliance of the providers of intermediary services with the DSA and the Law;
 - g. acting as the central point for the submission of complaints against providers of intermediary services;
 - h. issuing and publishing an annual report at the end of June of each year; and
 - i. imposing an annual supervisory fee to providers of intermediary services.
5. The Competent Authorities:
- a. have the powers conferred on them by virtue of the DSA, including powers of investigation, enforcement powers and the power to take other effective, dissuasive and proportionate measures to ensure compliance with the DSA⁶;
 - b. are entitled to participate in the European Board for Digital Services without voting rights; and
 - c. collaborate with the Digital Services Coordinator.
6. The Cyber Crime Division of the Hellenic Police is designated by the Law as the competent authority for the receipt of notifications in accordance with Article 18 of DSA.
7. In this context, providers of hosting services who are aware of information giving rise to suspicions of the occurrence or imminent occurrence of a criminal offence involving a threat to life or safety, must notify the Cyber Crime Division.

C. Fines and Judicial Remedy

1. The Digital Services Coordinator and/or the Competent Authorities may impose fines or periodic penalties on providers of intermediary services in cases of violation of the DSA.
2. Such penalties must be effective, proportionate and dissuasive, depending on factors such as the nature, gravity, recurrence and duration of the violation, their scope and the type of activities carried out.
3. According to the Law, the maximum amount of fines and penalties are as follows:
 - a. the amount of the fine may be up to 6% of the annual worldwide turnover of the intermediary service provider during the previous fiscal year;
 - b. the amount of the periodic penalty may be up to 5% of the average daily worldwide turnover or income of the intermediary service provider during the previous fiscal year.
4. The decisions of the Digital Services Coordinator and/or the Competent Authorities on the

⁶ Article 51 of DSA

imposition of fines or periodic penalties may be appealed before the Administrative Court of Appeal in Athens, while other individual administrative acts, as well as regulatory decisions issued pursuant to the Law, may be subject to an application for annulment before the Council of State. The time limit for the exercise of the above legal remedies does not suspend the execution of the contested decisions unless otherwise ruled by the competent Court.

D. Other Key Aspects

1. The Digital Services Coordinator must establish a Registry of providers of intermediary services operating in Greece, within 6 months from the date of entry into effect of the Law (ie by 5 October 2024). Within three months of the establishment of the Registry, the following categories of intermediary services providers must be registered:
 - a. providers established in Greece;
 - b. providers whose legal representative resides in Greece; and
 - c. providers not established in the EU but provide services in the EU and whose legal representative is established in Greece.
2. The Law provides for the formation of an Advisory Committee for Digital Services in the Ministry of Digital Governance. This will be an advisory body monitoring legislative developments on digital services, submitting proposals for regulatory or other measures in the field of digital services and cooperating with other authorities.

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