



MOURGELAS & ASSOCIATES

Law Firm

Mourgelas Energy & Environment Legal Bulletin

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Editorial

Welcome to our second issue of Mourgelas Energy and Environment Legal Bulletin. The legal developments in both the energy and environment fields in Greece are rapid and by the time our first Bulletin was ready to go to press significant elements of the law had changed; hence, we went back to the drawing board and incorporated all new developments. The new Ministry of Environment, Energy and Climate Change has been especially active and among its first priorities was the implementation of EU directives that were past their implementation due date. The government has, moreover, undertaken a concerted effort to attract foreign and local investors in the Greek energy sector (particularly renewables) as well as in green business activities which are currently at an infantile stage of development in Greece. As a result, new business and investment incentives are provided and new public bids are increasingly announced.

These developments are well reflected in this issue of the Bulletin. Readers will detect that we have changed the format of the Bulletin, focusing instead on smaller pieces with a minimal degree of analysis. We hope these will appeal more to our readers and colleagues around the world.

As always, we are happy to hear from you and answer any question that you may have in any matter of energy law or Greek law and practice.

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Law 3855/2010 regulating Energy Service Companies (ESCOs) and other issues related to the improvement of energy end-use efficiency

Law 3855/2010 implementing Directive 2006/32/EC on energy end-use efficiency and energy services was issued on June 23, 2010. This law includes a set of policies and measures aiming to promote the reduction of energy consumption by consumers and the improvement of energy end-use efficiency. In this respect an overall national indicative energy savings target of 9 % for the period until 2016 is set out. The new law also sets the conditions for the development of an energy services market, making specific reference for this purpose to ESCOs and setting out the basic principles of “energy performance contracts” (EPC), agreed between consumers and ESCOs.

New Directive (2010/31/EU) on the energy performance of buildings

On June 18, 2010 Directive 2010/31/EU on the energy performance of buildings was published in the Official Journal of the European Union. The principal purpose of this new directive is to strengthen the energy performance requirements included in Directive 2002/91/EC, extend its scope and clarify some of its provisions in order to increase energy efficiency in the Union and reduce large differences between Member States’ results in this sector with the aim of achieving the objective of reducing by 20% the Union’s energy consumption by 2020. Directive 2002/91/EC is therefore repealed by Directive 2010/31/EU with effect from February 1, 2012, while the new Directive has to be adopted by the Member States by July 9, 2012 at the latest.

Plan for the achievement of the targets set for Renewable Energy Sources (RES) by 2020

On June 21, 2010 the Ministry of Environment, Energy and Climate Change presented the “Plan for the achievement of the targets set for Renewable Energy Sources (RES) by 2020”. These targets include a 20% share of RES in the final energy consumption, a 40% RES share in the final electricity consumption, a 10% share of biofuels in transports and a 4% reduction of greenhouse gas emissions in all activities, save for those exempted from the Directive on emissions trading. The Plan takes into consideration several factors, such as estimations on the country’s expected financial growth as well as a series of actions recently adopted aiming to promote the improvement of energy end-use efficiency and to speed up the implementation progress of RES projects. The results of the evaluation of the aforementioned data demonstrate that the achievement of the targets set for 2020 is possible. Investments of 16 billion euros in RES leading to more than 15.000 MW installed capacity are expected to be in place within the next 10 years. More precisely the plan foresees an installment of further 6.000 MW wind, 2.500 MW p/v and 250 MW units using biomass. The Plan will be sent to the European Commission and will serve as the basis for the Ministerial Decision, which shall specify the annual penetration of RES in Greece’s energy balance. The promulgation of this Ministerial Decision is, according to the new law on RES (L. 3851/2010), necessary for the resumption of the - currently frozen in large part - licensing procedure for new RES projects.

Preliminary siting of offshore wind parks

The Ministry of Environment, Energy and Climate Change presented on July 6, 2010 the preliminary selection of 12 maritime areas for the installation of offshore wind parks. In accordance with article 6 of the recently issued Law on Renewable Energy Sources (L. 3851/2010), which foresees a particular licensing procedure for offshore wind parks, the preliminary selection of these areas will be followed by strategic environmental impact studies. The purpose of these will be to examine the necessary technicalities of the installation (eg. exact location, maximum installed capacity), following which the respective projects will be granted licenses by the Ministry in order to be finally subjected to bidding procedures for the assignment of the construction and operation of the parks to interested investors. The 12 areas selected by the Ministry for the siting of the offshore wind parks are: Agios Efstratios, Alexandroupolis, Thassos, Karpathos, Corfu, Krioneri, Kimi, Lefkada, Limnos, Petalioi, Samothrace, Fanari.

Two Joint Ministerial Decisions on environmental liability expected soon

According to a press release of the Ministry of Environment, Energy and Climate Change dated June 4, 2010 two new Joint Ministerial Decisions are expected. These are due to implement Presidential Decree 148/2009, which transposed in the Greek legal order Directive 2004/35/EC on environmental liability. The purpose of these two Decisions shall be the placement of all operators of projects and activities involving environmental risk under a system of harmonised mandatory financial security as foreseen in article 14 of Presidential Decree 148/2009.

Law 3854/2010 amending the existing legal framework on sustainable management of packaging and other specific products

On June 23, 2010 Law 3854/2010 was issued, introducing a series of amendments to the existing legal framework for the sustainable management of packaging and other products, including: a) Enhancement of the efficiency of E.O.E.D.S.A.P (“National Organization for the Alternative Management of Packaging and Other Products”); b) Assurances as to the non-profit character of all particular systems of sustainable waste management; and c) Amendment to the calculation method for the fees paid by the municipalities to the waste management operators, henceforth depending on the quantity of waste delivered.

New draft bill on "National infrastructure for geospatial information"

The draft bill entitled "National infrastructure for geospatial information", implementing the European Directive INSPIRE (2007/2/EC: "Infrastructure for Spatial Information in the European Community") was presented on June 16, 2010 before the Greek Cabinet. The draft bill establishes a system allowing direct access through the Internet to the entire digitally available geospatial information of the country. The importance of this draft bill for Greece is significant, since, while most other Member States already possess infrastructure merely requiring harmonisation with the INSPIRE Directive, Greece must first establish said infrastructure and then harmonize it under the terms of the Directive. This promises to be an innovative process encompassing all areas of Greek public administration with multiple benefits as regards cost savings, environmental protection and guarantee of equal access to geospatial information for all citizens. Moreover, this draft bill shall promote investment initiatives in Greece and stimulate development, since it shall significantly help reduce bureaucracy and speed up services offered to citizens and companies with regard to the allocation of the geospatial information necessary for their business affairs.

Presentation of the project "Athens - Attica 2014"

On June 14, 2010 the Minister of Environment, Energy and Climate Change presented the basic principles and the main actions to be included in the new Master Plan for Attica, which is intended to be published for public consultation by the end of 2010. The objectives of the new Master Plan include, among others:

- Environmentally sustainable economic growth, promotion of the competitiveness and improvement of the role of Athens as a Mediterranean and European metropolis;
- Improvement of the quality of life for all residents; and
- Reduction of the ecological footprint of Attica through energy-saving actions, protection of water resources and reduction of gas emissions.

For this purpose, a series of specific actions in the course of the new Master Plan were announced, including the conversion of certain central streets to pedestrian zones, the reconstruction of some squares in deprived areas, the creation of several metropolitan parks in the city, the conversion of several streets into green space and areas of recreation, the reconstruction of the sea front of the city and the promotion of sustainable urban mobility by replacing cars with other means of transportation such as public transportation and bicycles.

New draft bill on biodiversity protection

A new draft bill on biodiversity protection was presented on June 16, 2010 before the Greek Cabinet. This draft bill aims to strengthen the protection of biodiversity by adjusting the existing legal framework on biodiversity to the protection standards set by the relevant international conventions as well as to the Greek forestry legislation. In this respect, procedures relating to the designation of protected areas are being simplified and clarifications are being provided as to permitted and forbidden actions within such areas. Furthermore, the draft bill aims to fill some legislative gaps in relation to the management and protection of NATURA 2000 areas.

Application of “social tariffs” and increase of the RES fee

The Ministry of Environment, Energy and Climate Change announced on June 10, 2010 the application of “social tariffs” for electricity consumption as well as the increase of the RES fee included in electricity bills from 0,3 € to 5,57 € per 1000 kWh. The social tariff will apply to residential consumers who belong to socially vulnerable groups and will include a 10% discount for electricity bills with a 4-month consumption not exceeding 1000 kWh, as well as a 20% discount for specific vulnerable groups (eg. unemployed, people with special needs). The Ministry also announced that there will be no increase in electricity tariffs in 2010, apart from the increase of the special RES fee, which, however, will not apply to residential consumers, at least for 2010.

The fourth LIFE+ call for proposals

The fourth LIFE+ call for proposals was published in the Official Journal of the European Union (2010/C114/08) on May 4, 2010. The Commission invites entities registered in the European Union being public and/or private bodies, actors and institutions to present proposals for the LIFE+ call for proposals 2010. Up to €243 million is available for co-financing of projects under three headings: nature and biodiversity; environment policy and governance, and; information and communication. The deadline for the submission of proposals to the relevant national authority is September 01, 2010.

Call for proposals for the siting of hazardous industrial waste management facilities

The Ministry of Environment, Energy and Climate Change invites all entities interested in constructing hazardous industrial waste management facilities in Greece, to propose geographically localized areas for the siting of landfills for hazardous waste, where hazardous waste management shall take place. Proposals which will be positively evaluated by the Ministry may receive public funding by the Greek National Strategic Reference Framework (ESPA). Proposals should be addressed to the Ministry of Environment, Energy and Climate Change no later than Friday, July 30, 2010.