



***Greek PV Legal Framework:
Reality and Challenges***

by

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Athens, November 27, 2009

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I. THE PV REGULATORY FRAMEWORK IN GREECE: *REALITY AND CHALLENGES FOR THE INVESTOR*

A. General outline of the Greek Renewable Energy Sources (RES) sector

1. Why invest in RES projects in Greece

- A state *major energy policy* : favorable *legal, administrative and financial initiatives*
- *Investment incentives*: generous state subsidies for the construction of PV units and attractive feed-in tariffs.

2. Facts, Figures and Tendencies in the Greek market

- *Installed capacity* of electricity generated from RES = ca 1.200-1.350 MW (July 2009)
- *Actual share of RES generated electricity production* in the total electricity production: less than 10%. Binding target: 18% share on energy consumption by 2020 (Directive 2009/28/EC).
- *Setbacks* to implementation of legislative measures and realisation of PV projects:
 - complicated legislative stipulations and procedures
 - “opportunistic” business behaviours
 - bureaucracy.

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B. Overview of the legislative framework: how to do and finance business on Photovoltaics in Greece

1. The main legislative instrument: L. 3468/2006, as amended by L. 3734/2009

a) Main Characteristics

➤ ***Licensing procedure***

Small PV plants (maximum capacity of 20 kW) require:

- no license
- no environmental permit
- Conclusion of an interconnection agreement with the utility (PPC/DEI) and signature of the Power Purchase Agreement (PPA) with HTSO/DESMIE

Medium sized PV plants (>20 kW and ≤150 kW) require:

- a decision for exemption from the obligation to obtain a production licence, issued by RAE (Regulator).
- an environmental permit.
- Conclusion of interconnection agreement & of Power Purchase Agreement (PPA).

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All larger PV plants exceeding the aforementioned capacity limits require:

- a Production Licence.
- an Installation Licence.
- an Operation Licence.
- Environmental permit.
- Conclusion of the interconnection agreement with the utility (PPC/DEI) and the PPA contract with HTSO/DESMIE.



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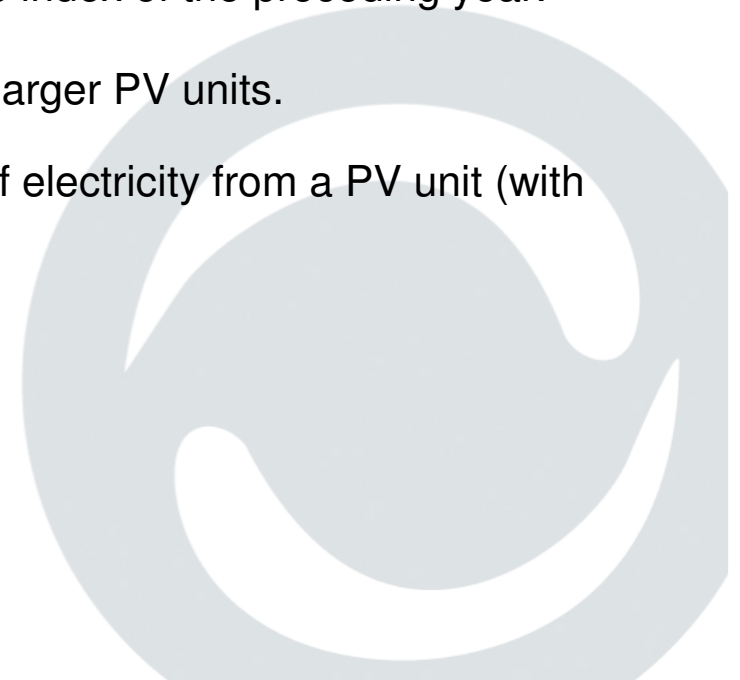
➤ ***The fixed “feed-in tariffs” (FITs)***

The new FIT introduced especially for PV by Law 3734/2009:

- highest of all other RES
- unchanged for two years, while a regression of FITs will start as of August 2010.
- readjusted every year by 25% of the consumer price index of the preceding year.

Pricing is far more favourable for smaller rather than larger PV units.

The Power Purchase Agreement (PPA) for the sale of electricity from a PV unit (with fixed FITs) is concluded for a period of 20 years.



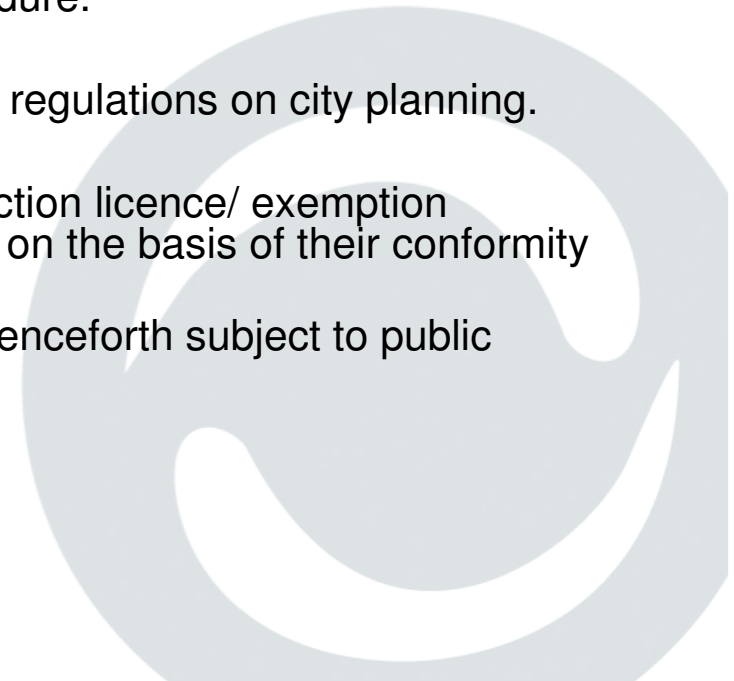
Fixed “feed-in” tariffs (€/MWh) acc. to art. 27A of L. 3734/2009

Year/ month	Interconnected areas (mainland and interconnected islands)		Non-interconnected islands	
	>100 kW	<= 100 kW	>100 kW	< =100 kW
February 2009	400.00	450.00	450.00	500.00
August 2009	400.00	450.00	450.00	500.00
February 2010	400.00	450.00	450.00	500.00
August 2010	392.04	441.05	441.05	490.05
February 2011	372.83	419.43	419.43	466.03
August 2011	351.01	394.88	394.88	438.76
February 2012	333.81	375.53	375.53	417.26
August 2012	314.27	353.56	353.56	392.84
February 2013	298.87	336.23	336.23	373.59
August 2013	281.38	316.55	316.55	351.72
February 2014	268.94	302.56	302.56	336.18
August 2014	260.97	293.59	293.59	326.22
From every year n from 2015 onwards	1,3 x aMSPn-1	1,3 x aMSPn-1	1,4 x aMSPn-1	1,5 x aMSPn-1
aMSPn-1 = average marginal system price during the previous year n-1				

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b) Setbacks – Perspectives

- National program on PV deployment for the period 2007-2010 (initial target of 700 MW - increased to 840 MW)
- Overflow of applications exceeded the allowed overall capacity
- Collapse of the entire licensing regime – Suspension of the issuance of all licencing procedures (no such restriction for small PV systems).
- Not trouble-free Implementation process of L. 3468/2006:
 - bureaucratic and complicated licencing procedure.
 - hardly respected relevant deadlines.
 - Obstacles pertaining to the implementation of regulations on city planning.
- Amendments by Law 3734/2009:
 - all pending applications for granting of production licence/ exemption decision to be served until 31 December 2009, solely on the basis of their conformity with the conditions set out.
 - PV systems with a capacity of over 10 MW: henceforth subject to public bidding procedures.



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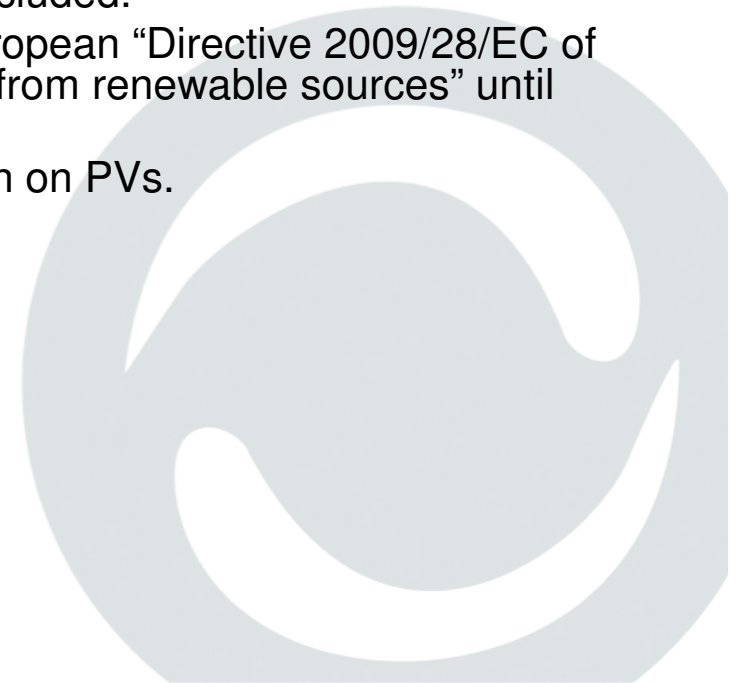
APPLICATIONS FOR PHOTOVOLTAICS (> 150 Kw)

Source: Press communication by RAE dated September 29th, 2009

	Operation License granted	Installation License granted	With Environmental permit	With Production License	Positive Opinion by RAE	Examined by RAE & further forwarded for environmental permits	Negative opinion by RAE	Pending appreciation / examination	Total of applications
Number	37	30	16	117	49	391	313	647	1517
Capacity {MW}	4,10	83,00	30,50	203,50	105,62	771,77	506,02	1.452,03	3.038,02

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- Regulator: Harsher attitude towards applications filed for the granting of a production licence compared to applications for granting of an exemption decision.
- Factors promoting secondary market and “licence trade”.
- Future perspectives:
 - not concrete - no new applications for “licences” for the time being.
 - a new Law or an amendment to L. 3468/2006, simplifying the licencing procedure (creation of one-stop-shops?) not to be excluded.
 - Compliance with/incorporation of the new European “Directive 2009/28/EC of April 23, 2009 on the promotion of the use of energy from renewable sources” until December 5, 2010.
 - Eventually, elaboration of a new National Plan on PVs.



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2. Other legislative and regulatory instruments

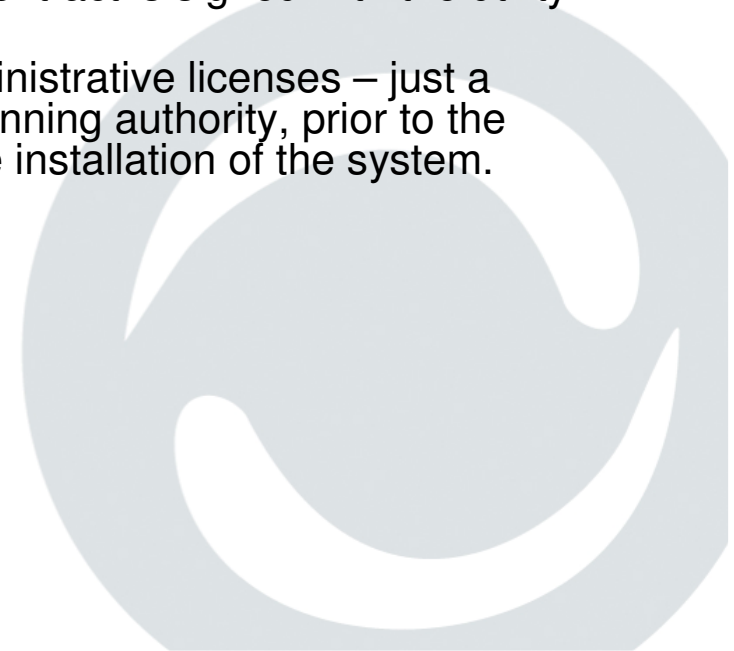
Special Framework for Spatial Planning for Renewable Energy Sources

- criteria on areas considered as favorable for the realisation of RES projects
- concrete rules on the terms and conditions for the installation of RES plants, taking into account the environmental and aesthetic particularities of the installation area.
- specific set of rules for every single category of RES in use - less detailed regulation as regards PV and solar energy in general.
- Areas barren, or of low or medium productivity and favorably invisible from frequently visited spots are defined of “high priority”. Regarding PVs, appropriate measures on avoidance of any visual nuisance must be taken within the scope of the environmental licensing procedure.
- not applicable to RES plants exempted from the obligation to obtain a production licence and to RES plants defined by law as of “no disturbance”.

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Incentive Program promoting the use of PV in buildings (small rooftop PVs)

- Program launched in June 2009. Covers rooftop PV systems up to 10 kW and its duration is till 31.12.2019. Currently valid for the mainland grid areas and the interconnected islands
- Residential users and small companies are eligible, providing they fulfill some specific requirements.
- Grants no direct subsidies, but sets a very favourable feed-in tariff (FIT) for such systems: the FIT is set at 0,55 €/kWh and is guaranteed for 25 years, while an annual regression of 5% is foreseen as of 2012. The sales contract is signed with the utility (PPC).
- Quite uncomplicated application procedure: no administrative licenses – just a simple “petty works permit” by the local urban/city planning authority, prior to the conclusion of the sales contract with the PPC and the installation of the system.



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3. Means of financing business activity in the Greek PV market

The “Development” Law

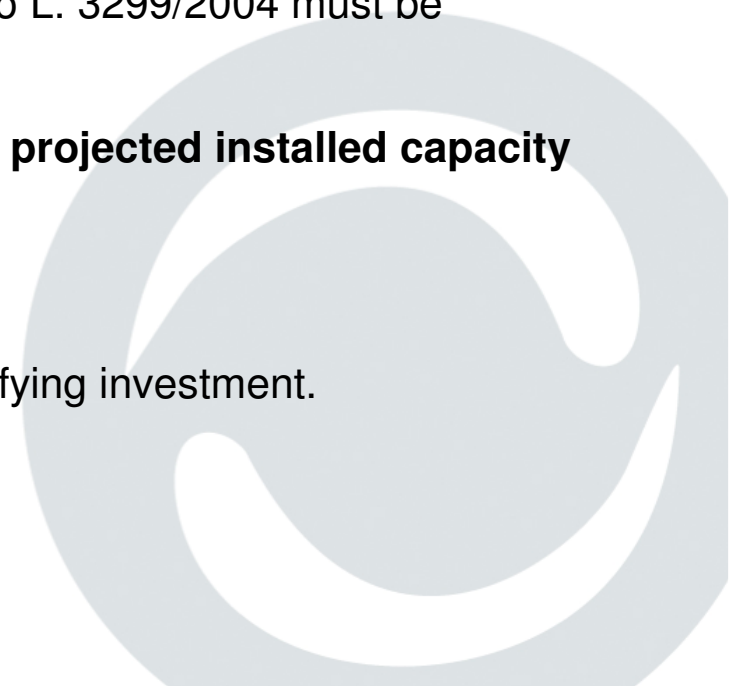
- **Development Law (L. 3299/2004)**: main financial instrument for all sectors of economic activity, providing substantial public subsidies (financial aids and incentives) to investments exceeding certain thresholds.

- **New draft bill on investments** will be presented to the Parliament at the beginning of 2010. Any new applications for financing pursuant to L. 3299/2004 must be submitted by 31-12-2009.

- **Electricity production from all PV systems with a projected installed capacity of less than 2 MW**: eligible for incentives

Various forms of Investment incentives:

- Cash grants and/or leasing subsidies.
- Tax relief/allowance, in relation to the cost of the qualifying investment.
- Labour (payroll) cost subsidy.



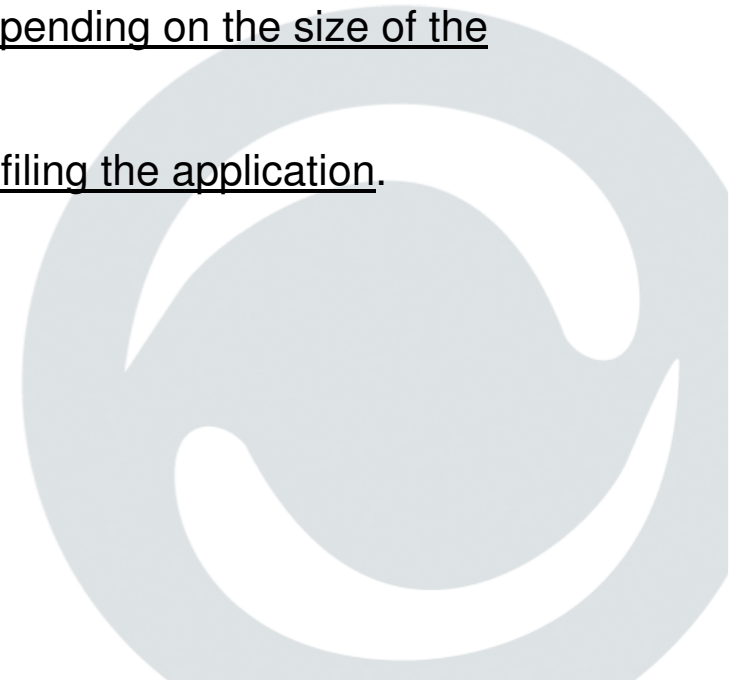
Size of investing company	Zone A	Zone B	Zone C	Qualification of the investing company	Minimum Investment Amount in €
Large	20%	30%	40%	Personnel > 250 individuals. Revenues > 50 million € or annual balance > 43 million €	500.000
Medium	30%	40%	40%	Personnel < 250 individuals. Revenues < 50 million € or annual balance < 43 million €	250.000
Small	40%	40%	40%	Personnel < 50 individuals. Annual revenues or balance < 10 million €	150.000
Very Small	40%	40%	40%	Personnel from 0 to 10 individuals. Revenues or annual balance < 2 million €	100.000

I. THE PV REGULATORY FRAMEWORK IN GREECE: *REALITY AND CHALLENGES FOR THE INVESTOR*

Since July 2007, **PV investment projects eligible for a subsidy covering 20-40% of the project's total investment cost, depending on the zone of realization as well as on the size (personnel and turnover) of the investing company**

Criteria for a company's eligibility for funding:

- **Investor's required own capital:** at least 25%, while 35% can be granted through loans and the remaining 40% can come as a subsidy by the Greek state.
- **Minimum investment cost:** 100,000 - 500,000 € (depending on the size of the enterprise)
- **Production licence** must be available by the time of filing the application.



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EU & other National funded grants

- **Greek National Strategic Reference Framework (ESPA) under the 4th European Community Support Framework from 2007 to 2013** (of an overall budget of 26,2 Billion €).
 - Projects/actions submitted within the framework of the [Sectoral Operational Programme](#) “Competitiveness and Entrepreneurship” of the ESPA. ESPA funds available for investments in the energy sector: 823,2 million €, of which ca 700 millions available to day. Some part will be used for promotion of RES projects.
 - No energy actions eligible for funding by the relevant Operational programmes of the competent (regional) authorities (budget: 12,2 million €).
- **Various national grants** available from time to time (ex: Credit Guarantee Fund of Small and Very Small Enterprises [ΤΕΜΠΜΕ Α.Ε.]).

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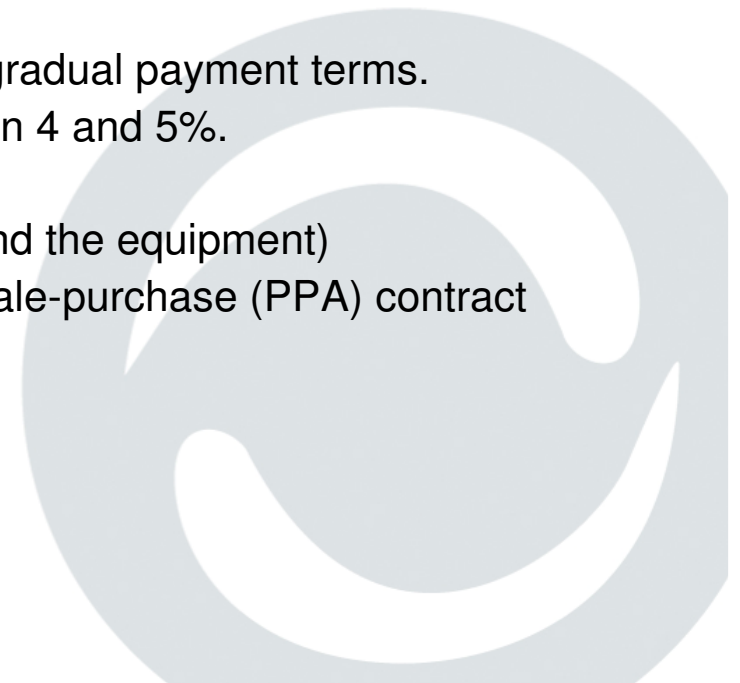
Financing a PV project in Greece:

a feasible, attractive exercise with reduced investment risk for investors and banks

- heavily subsidised construction cost
- secure, guaranteed income that such units generate.

Advanced banking solutions for financing PV investment projects:

- Coverage of plans, regardless if financing through development programs or through owned capital and bank borrowing.
- Duration of financing: up to 12 years, through gradual payment terms.
- Most competitive interest rates offered: between 4 and 5%.
- Banks' security requires:
 - an insurance coverage (of both the venues and the equipment)
 - assignment by the investor of the electricity sale-purchase (PPA) contract with HTSO



II. THE PV REGULATORY FRAMEWORK IN GREECE: *REALITY AND CHALLENGES FOR THE LAWYER*

A. Typical services offered by lawyers dealing with PV projects include:

- advice and assistance on **legal and tax issues relating to energy law and RES and PVs** in particular
- drafting of **legal opinions**
- assistance and advice on **financial, regulatory and contractual aspects of major projects**, including corporate restructuring or environmental issues
- **litigation and dispute resolution procedures** – clients' representation in courts, arbitration proceedings, hearings before the National Regulator or other independent administrative authorities.
- **communication with Public Administration** (Prefectures, Regions, Ministries, City Planning Authorities, Tax Authorities, etc.) **and the operators of electricity** (PPC, HTSO).



II. THE PV REGULATORY FRAMEWORK IN GREECE: *REALITY AND CHALLENGES FOR THE LAWYER*

B. Specific legal advice to clients wishing to invest in and construct a PV project

- **Legal (legislative and regulatory) framework of PVs and advice on the existing business opportunities.**
- **Licensing procedure.**
- **Contracts of intermediation in view of exploring business opportunities & of confidentiality and non-disclosure agreements.**
- **Due diligence of the files of production licences (and exemption decisions) and of the companies being their beneficiaries.**
- **Business schemes and contracts for the acquisition and exploitation of licences and exemption decisions.**
- **Project finance and state subsidies procedure.**
- **Joint venture agreements between investors and EPC contractors for the joint implementation and exploitation of solar projects.**
- **Contracts between the partners involved in the project, including EPC, supply and operation and maintenance contracts for the realization of Solar Parks**
- **Contracts with subcontractors in view of the construction of PV parks.**
- **Issues relating to the bidding procedure (for PV systems with a capacity of >10 MW).**