



## Newsletter: TO WHAT EXTENT HAVE PROFESSIONS IN GREECE BEEN LIBERALIZED?

### Summary

**Greece proceeded from 2010 onwards to an extensive reform of the legislative framework regulating professions/activities of the country's service sector.** Prior to this reform, access to and practice of many of these professions/activities were subject to extensive restrictive regulations on market entry and conduct. The main legislative act of the reform was Law 3919/2011. The process of implementation of this law proved lengthy and complex. The largest part of the process has now been completed, bringing about the abolition or drastic reduction of restrictions in a wide range of service sector professions/activities.

**The assessment of the effects of the reforms in Greece was subject to a number of difficulties.** In particular, the liberalization process is still ongoing for some professions, while for most others full implementation of Law 3919/2011 took place until 2013 or later. Thus, the full reaction of the market to the reforms may not have been manifested yet and the post-reform data available may not be sufficient to evaluate this reaction. Furthermore, the deep and prolonged recession in the Greek economy had profound negative effects on employment, pushing the unemployment rate to levels above 27%. Furthermore, the sharp decline in demand associated with the recession, combined with the internal devaluation policies applied, had significant negative effects on prices. Thus, in the case of Greece, it is hard to distinguish whether and to what extent falling prices in professional services in the period after the implementation of the reforms may be related to the reforms. In addition, any positive or negative impact of the reforms on employment may be masked by the underlying strong employment effects of the recession.

**Results were positive but there is still room for improvement.** Despite the fact that the implementation of liberalizing professional requirements in Greece is still ongoing for some professions, while for many others it has taken place until 2013 or later, the results already point to positive effects. However, it is generally accepted that there is still room for improvement and even "already-liberalized" professions could face more relaxed requirements (e.g. full abolition of numerus clausus or minimum/fixed prices where they still exist).

### Legal mechanism of the Law

**The Greek government passed a framework law on the liberalization of professions.** The Greek parliament adopted Law 3919/2011 (OG A' 32) on the "*Principle of freedom of profession, repeal of unwarranted restrictions on the access to and exercise of professions*". The law focuses more on the "better regulation/simplification/reduction of red tape" agenda, rather than on the Services Directive itself. However, since the Services



Directive is, also, about simplification, Law 3919/2011 is relevant for the implementation of the principles of the Services Directive, and especially for Article 16.

**The law introduces a general principle bundled with a guillotine rule.** The law stipulates that *“the access to professions is free and that all existing regulations with regards to this access should be construed according to the freedom of professions and protection of competition.”* As stipulated in art. 2, within **four**<sup>1</sup> months from the Law’s publication in the Official Gazette, all existing measures restricting access to and exercise of any ‘profession’ become automatically void. It is foreseen that further professions may be regulated by **individual acts** to be adopted within four months from the publication of the Law after an assent issued by the **Hellenic Competition Commission**. Any restriction thus introduced should be a) justified by an overriding reason of general interest, b) proportional and c) non-discriminatory on the basis of the principles of the Law. To this end, all prior authorization requirements – save for those specifically exempted by the Law or to be determined by Presidential Decrees to be issued within four months of the Law – become automatically void.

**The Law also abolished the requirement for the issuing of an administrative license.** The license to practice a profession/activity, has been replaced with a simple notification of commencement of activity accompanied by the necessary supporting credentials. If within three months of a notification the relevant authority does not prohibit practicing on the grounds of non-compliance with a legal requirement, then the profession/activity may be practiced freely. In this case also, a Presidential Decree was required for maintaining a licensing process by exception; otherwise within four months from the Law’s publication licensing was repealed automatically.

**The Law included three main exceptions from the general principle.** The principle of freedom of professions a) is not applicable if it is against EU legislation, not applicable to services of a general interest and not applicable to gambling services (art. 1), **b)** pharmacists and road freight transport (explicitly) and **c)** lawyers, engineers, accountants which are regulated as a special and independent part in the law. Especially with regards to c), the special part lifts some restrictions for lawyers, engineers and accountants but at the same time considers them as an exception to the main part of the law. The law itself recognizes that there are still restrictions on the access and that these three professions and that they are allowed to be subject of a separate regulation, beyond the principles of the law.

**The implementation was proved much more complex resulting in delays beyond the 4-month transitional period.** The implementation entailed the adoption of a **series** of further acts. Several new laws as well as a large number of Presidential Decrees, Ministerial Decisions and circulars were issued and the implementation process has been completed for the of professions/activities under liberalization. Nevertheless unresolved issues still remain in certain cases.

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<sup>1</sup> The four month duration was included in the initial version. An amendment in 2013 deleted the “four month” duration, leaving it as an open-ended reform. However, the implementation was mostly followed by the MoU (Economic Programme) implementation and there is ongoing progress.



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Further to L. 3919/2011 the following professions were affected with regards to the previous imposed restrictions<sup>2</sup>(indicative list):

- Beauty Salons: abolition of prohibitions on the establishment of a company vehicle
- Dental laboratories: abolition of prohibitions regarding the establishment of entities
- Physiotherapists: abolition of prohibitions on the exercise of the profession
- Nephrologists in Chronic Dialysis
- Providers of Primary Health Care Services and their scientific directors: abolition of prohibitions regarding their legal status. Replacement of provisions on the conditions of issuance of operation certificate to the Providers of Primary Health Care Services
- Scientific director of dental laboratories: rephrasing of provisions.
- Supply of prescription glasses, reading glasses etc. and scientific director of optician shops: rephrasing of provisions.
- Physiotherapy laboratory: rephrasing
- Veterinary clinics
- Seller of ancient products
- Bake off installations and sale of bread
- Tourist guides

*Note: Many professions were affected by the law, but there is no a consolidated list of these. This is mostly due to the fact that restrictions were lifted through various laws and regulations, even circulars, and there is no official tracking of the reform.*

Despite the initial intention of L. 3919/2011 and its broad scope, there are still remaining restrictions on certain professions. The table below summarizes the main areas of restrictions for 10 selected professions, as researched by KEPE (2015)<sup>3</sup>. Summaries on some of them is provided in the following paragraphs.

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<sup>2</sup>This does not necessarily mean that there was a full liberalization but that the majority of restrictions was lifted.

<sup>3</sup><http://ec.europa.eu/DocsRoom/documents/13363/attachments/1/translations/en/renditions/native>



Profession/activity	Prohibition outside of geographical district	Imposition of minimum distances	Prohibition of establishment/practice in more than one facility	Restrictions on co-location/joint practice	Exclusive right to or prohibition of the supply of services	Restrictions on the business forms allowed to practice, or mandatory practicing by single natural persons only	Constraints on equity participation based on criteria relating to professional status	Fixed or minimum prices or fees	Restrictions on advertising	Other restrictions
Lawyers	X			X	X		X	✓	✓ <sup>1</sup>	
Law firms	X			X	X	X	X	✓	✓ <sup>1</sup>	
Notaries	X		X	X	X		X	✓	✓ <sup>1</sup>	
Notary firms	X		X	X	X	X	X	✓	✓ <sup>1</sup>	
Auditors, chartered accountants					X			✓	✓	X
Accountants, tax consultants										✓
Dentists	✓		✓					✓	X	
Dental practices	✓		✓			✓	✓		X	✓
Dental laboratories						✓	✓			✓
Scientific director of dental laboratories					X					✓
Physiotherapists	✓		✓					✓	X	
Physiotherapy centres	✓		✓	✓	✓	✓	✓		X	✓
Taxi drivers	X				X					
Taxis	X					✓		X		✓
Shipping agents	✓			X						
Tourist guides										✓
Chartered valuers						✓	✓	✓		✓



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Real estate agents								✓		
Nephrologists in Chronic Dialysis		X	✓			✓	✓	X		
Providers of Primary Health Care	✓		✓		✓					✓
Scientific directors of Providers of Primary Health Care	✓									
Opticians shops			✓		✓	✓	✓			
Veterinary clinics							✓ <sup>1</sup>			
Seller of ancient products					X		X			✓
Bake off installations and sale of bread	✓									
News Vendors	✓		✓		✓	✓		✓		
Beauty Salons					✓	✓	✓			
Hair salons/ Nails care salons										✓
Amateur dance schools							✓			

Note: X denotes preservation of the corresponding restriction, ✓ denotes lifting as a result of the reforms and ✓<sup>1</sup> denotes partial lifting of the restriction.

Source: KEPE (2015) for the European Commission DG for Internal Market, Industry, Entrepreneurship and SMEs, “THE EFFECTS OF LIBERALIZATION OF PROFESSIONAL REQUIREMENTS IN GREECE” with research, additions and updates by the editors.



## Conclusions

**The effort of the liberalization and its intention led to a significant number of reforms on professional requirements.** Indeed, a large number of professions has been put under scrutiny and many requirements were lifted (e.g. licenses were replaced by a simple notification process, abolition of exclusive rights).

**The room for specific legislation was a legislative step to maintain restrictions.** There are still professions that have been subject to *ad hoc* abolition of restrictions through specific legislation (and sometimes not the main restrictions) and not through a holistic approach of liberalization. Thus, in the main pillars of services (the so-called “scientific professions”), a significant number of professions remains to some extent restricted (e.g. notaries). Even if we isolate the restriction with regards to licensing and qualifications (which at some extent might be justified) there are still geographical restrictions, uncertainty on the right to advertise and remaining regulated fixed fees (discouragement of lower fees). There is still room for improvement towards a more effective liberalization of professions, which hold a vital role of the Greek economy.

**Summarizing what worked and what did not work in this exercise, we could highlight the following pros and cons – some being at the same time positive and negative.** Positive: (a) consolidated Act which gave the message and the political intention to liberalize professions, (b) guillotine rule which forced things to move quickly, (b) involvement of the Hellenic Competition Commission to guarantee the legality of exceptions. Negative: (a) The provision for explicit exceptions gave the message that all professions could be subject to even a minimum of exceptions, (b) maintained exceptions were not always a result of a cost-benefit analysis, (c) a *stricto sensu* balance of competition rules against the particularities of certain professions (e.g. information asymmetry) resulted in maintaining crucial requirements in key professions.

## ANNEX – Status of liberalization of specific professions

### Engineers

Engineers have not been a part of a significant liberalization, even after L. 3919/2011. However, several restrictions were lifted with regards to minimum fees. There are still “legal fees” but there is the possibility to set prices/fees free, even at a lower level. However, taxes, social funds’ contributions and the fee for the Technical Chamber is based in the legal minimum fee if the free fee is lower than the legal. This discourages the agreement of a lower fee.

### Lawyers

The profession of lawyer is subject to a licensing procedure according to the terms and conditions defined in the Code of Conduct of Lawyers (Law 4194/2013). With respect to market entry, the practice of the profession requires: (a) a degree from a domestic or an acknowledged foreign higher Institution, (b) 18 months practical training, (c) Greek or EU country citizenship and (d) examinations carried out by the Ministry of Justice. Lawyers must be registered with the regional Hellenic Association of Lawyers in order to practice their profession. After successful examination, lawyers are appointed by the Ministry of Justice to the Court of First Instance in the region in which they are registered. Each lawyer needs to be registered exclusively in one bar association.



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With the implementation of Law 3919/2011, geographical restriction was lifted (exercising law in any area of the country). However, their headquarters of the *law office* should be in the territory of the bar association.

With regard to the determination of prices/fees, clients and lawyers can freely negotiate and agree in writing upon prices. This written agreement may concern all kinds of lawyers' services. In the case where a written agreement has not been signed, there is a provision for 'legal prices/fees' which are defined in the Code of Conduct of Lawyers (Law 4194/2013). Depending on the case, 'legal prices/fees' amount to the minimum prices/fees defined in the regime prior to the reforms, or are determined as a percentage of the contract value with a descending scale. Lawyers must pay in advance contributions to the Hellenic Association of Lawyers, calculated, depending on the nature of the services provided, as percentage on relevant 'reference fees' or 'reference percentages' defined in the Ministerial Decree no. 1117864/2297/A0012/7.12.2007 and Law 3919/2011. Law 3919/2011 provides for the possibility of adjusting these reference fees and percentages and defines the necessary process.

Exclusive rights were lifted: e.g. mandatory presence in notarial acts, mandatory presence in the establishment of a company etc.

With regards to law firms there are still some remaining restrictions: headquarters should be in the region/area of the bar association, law firms cannot have commercial or capital entities' characteristics, only lawyers can be partners and members of the law firm cannot participate in other firms or acting individually.

The publicity and promotion of the activities of individual lawyers or law firms both within Greece and in the rest of the world in accordance with the status and the dignity of the legal function is allowed. In practice, this remains vague and therefore lawyers are not encouraged to promote their business (especially by including pricing).

### Accountants, tax consultants

Licensing has been replaced by an announcement of commencement of activity. Required supporting documents: a) a profession starting announcement (applicable only to the self-employed), b) a certified copy of the diploma (degree for University and Technical Colleges graduates, Vocational diploma or high school diploma for non-graduates), c) a copy of the criminal record (this is requested by OEE), d) a statement of experience after obtaining the degree, e) payment of any arrear for those already members of the OEE, and f) a fee of 35 EUR.

There is a categorization of two Classes depending on the qualifications/experience. Class A: graduates from economic orientated University or TEI departments plus three-year experience as class B accountants. Class B: those with a lyceum (upper secondary) or any other post-lyceum diploma plus experience as assistant accountants. Training is needed to get an upgrade.

Membership in chamber is now voluntary but is still required for a significant number of acts, therefore, in practice, accountants usually continue to registered in the chamber.

### Notaries

Licensing procedure requirements: a) degree from a domestic or certified foreign higher education Institution, b) age between 28-42 years old, c) two years of experience in legal professions, d) examinations, e) mandatory attendance of seminars organized by the Hellenic Association of Notaries, f)



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€60 licensing examinations cost, g) mandatory registration with the regional Hellenic Association of Notaries.

Closed number of notaries: Remains even though the number of available notary positions increased annually to 700 only for the year 2019 due to declension from the rules defined by the Code of Conduct of Notaries.

Exclusive rights remained. Ministerial Decree redefines reduced fixed prices for the family and corporate law deeds and proportional prices with respect to the transaction cost on a descending scale.

Each notary is registered with only one branch of the Hellenic Association of Notaries. Notaries practice in the region of the County Court in which they are registered. By exception, notaries who are registered in municipalities of Attica may practice in other regions of Attica if their services are required.

Establishment only of one office in the region in which the notary is registered.

### Taxi drivers

Prior to the reforms, the activities of taxi drivers and taxis were regulated based on the Law 3109/2003 and Presidential Decrees 244/1987 and 243/1987, the provisions of which included: a) the requirement for license for taxi drivers and taxis, b) restrictions on the number of taxis, c) the prohibition of practicing outside of the geographical district where the taxi is licensed d) the obligation of taxi owners to have a taxi driver license and e) fixed taxi fares, and more particularly a fixed fare at the beginning of the trip, a fixed fare per km, a minimum fare per trip and fixed fares per other services offered.

Subsequently to Law 3919/2011, Law 4070/2012 introduced a new legislative framework for taxi services. On the basis of these reforms, a new category of taxis with 6-9 seats was defined, establishing thereafter two main taxi categories: a) those with 5 seats, which have a taximeter and b) those with 6-9 seats, called special lease taxis, which are without taximeter and take clients only by appointment with an agreed rent. Furthermore, an additional special lease category of taxis was defined, which also has 6-9 seats, and all necessary equipment to serve persons with disabilities. With respect to market entry, a license granted by the regional administrative authorities is required for both taxi drivers and taxis.

Furthermore, restrictions on the number of taxis still exist, together with the reliance of licensing on the decisions of the regional administrative authorities based on economic needs tests. More specifically, the Law establishes a mathematical formula for the determination of the maximum number of taxi licences per geographical district, according to population and geographical criteria. As a result, new licenses are effectively not permitted for several districts, including Athens and Thessaloniki, except for licenses for the new category of taxis. With respect to conduct regulations, practicing outside of the geographical district where the taxi is licensed is still prohibited.

### Dentists, dental practices

The profession of dentistry is subject to a licensing procedure according to the terms and conditions defined in the Legislative Decree 4111/1960, article 6. With respect to market entry, the practice of the dental profession requires a degree from a domestic or a certified foreign higher education Institution. After the acquisition of the license, dentists may apply for the dental specialty which requires 3-4 years education/training and examinations. Article 41 of Law 1397/1983 defines that for the preservation of a dental license, dentists are required to complete an 80-hour postgraduate course every 5 years (the



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course program is determined by the authorized Educational Committee) and a 20-hour seminar freely chosen by the dental practitioner.

With the implementation of Law 3919/2011 and Ministerial Decision Y.A.7/G.P./6701/2012 dentists can freely practice their profession after posting a market entrance announcement and submitting the required supporting documents. The administrative authorities audit/validate the above supporting documents to ensure that the dentist has fulfilled all the requirements. After the completion of the audits, the administrative authorities grant certification within a period of three (3) months. According to article 35 of Law 4025/2011, the Hellenic Dentistry Federation is authorized to grant, suspend, revoke and/or cancel practice and specialty certification.

The members of the association pay an annual fee, which is readjusted every year by the Board of the Association. Dentists who are EU citizens can establish themselves and can practice dentistry in Greece, after posting a market entrance announcement according to the terms and conditions of Greek legislation. These dentists may not be registered simultaneously with domestic and foreign associations or be established both in Greece and in another country (Presidential Decrees 98/1986 and 240/2004). Conduct regulation of dentists According to the Code of Conduct for Dentists, a dentist can practice his/her profession in private dental practices/clinics located in the regional area of the association in which he/she is registered (exceptions are defined only for island regions).

Dentists are prohibited from providing services (paid or non-paid) outside their regional area. Dentists are not allowed to participate in medical, pharmaceutical or health related companies and/or to advertise them.

### Real estate agents

Prior to the reforms, the real estate agent profession was regulated based on the Presidential Decree 248/1993, which referred briefly to the requirements for entry into the profession, without, however, defining the corresponding rules of conduct. According to the Presidential Decree, practicing of the real estate agent profession was subject to mandatory registration in the local chamber. Requirements for registration included a) a high school diploma, b) a clear criminal record certificate and c) a non-bankruptcy certificate. For registration of a company, the relevant documents proving its legality and representation were also required. While Presidential Decree 248/1993 did not explicitly provide for restrictions opposing the provisions of Law N. 3919/2011, in practice its gaps and 'gray areas' often resulted in anticompetitive practices. More specifically, while in the Presidential Decree there was no provision for minimum fees, therefore effectively abolishing a major restriction imposed in the previous regime, the fact that this abolition was not explicitly written in the Presidential Decree resulted in the imposition of minimum fees in practice.

Following Law 3919/2011, the regulatory framework of the real estate agent profession was radically reformed with the adoption of Law 4072/2012. This law set out in detail the terms and conditions for exercising the profession, removed all ambiguities of the previous regime and harmonized the Greek legislation with the requirements of Directive 2006/123/EC. As to qualifications and the procedure for entering the profession, Law 4072/2012 provided that anyone interested in practicing the profession can be automatically entered in the register of the Chamber of Commerce and the General Commercial Register (G.E.MI.) after the submission and auditing of necessary documents, including a high school diploma and a statutory declaration of non-conviction for a series of offenses.



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