

# NEWSLETTER

## October 2020

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# Metaxas & Associates Law Firm

## Note from the Editor

*The COVID-19 pandemic has brought fast-moving and unexpected variables with serious implications and unforeseen effects on human, business, and state activity. Throughout these challenging circumstances, M&A Law firm continues to remain fully active in its core practice areas of Energy, Competition, State Aid, and International Dispute Settlement.*

- *M&A Law Firm sponsored the distinguished 24th Roundtable with the Government of Greece of The Economist that took place on September 15-16 2020.*
- *M&A had the privilege to be selected for a third consecutive year to act as expert Law Firm for Greece to be part of the distinguished team of energy experts that prepared the Energy Investment Risk Assessment (EIRA) 2020 report.*
- *Our Law Firm acted as legal advisor on the successful closing of a complex takeover of a significant PV portfolio in Greece by our clients, a German Private Equity Fund.*
- *Furthermore, our Law Firm been hired by a major industrial client to act as its legal advisor for its strategic partnership with the new natural gas supplier in Greece. The legal work included in depth drafting and revising of complex contractual documents that led to this successful closing.*

*In this Issue, we present three significant issues amongst latest developments in the European legal landscape:*

- *EC approval on the extension of two electricity capacity market schemes in Greece, in view of the ongoing reforms in the Greek electricity market.*
- *The EC decision on the approval of €1.5 billion Greek scheme to support micro and small enterprises in 12 regions affected by Covid-19 outbreak.*
- *The newly published 2020 Strategic Foresight Report unveiled by the EC, outlining the role of strategic foresight in strengthening the resilience of the EU and its Member States.*
- *The EU Commission's Assessment of National Energy & Climate Plans that echoes the EU's increased climate ambitious goals.*



# Metaxas & Associates Law Firm

## Practice Highlights

❖ **M&A Law Firm** was glad to sponsor and contribute to the distinguished 24<sup>th</sup> Roundtable with the Government of Greece of the Economist, under the title “Europe: Reinforcing cohesion in turbulent times”, that took place on September 15-16 2020 at the Grand Resort Lagonissi, Athens. Top political personalities, distinguished academics and business leaders across the world openly discussed and put forward new proposals on all the issues that were at the forefront of this year’s Annual 24<sup>th</sup> Government Roundtable, focusing mainly on the impact of the recent coronavirus epidemic on the global economy and business, as well as other important topics of interest such as Brexit, migration flows, economic uncertainty and geopolitical tensions in the region. **Professor Dr. Antonis Metaxas**, Managing Partner of M&A Law Firm and Chairman of the Hellenic Energy Regulation Institute, participated as Commentator in the panel “*Security Challenges: Easing the Tensions*” together with G. Pyatt (US Ambassador to Greece), N. Panagiotopoulos (Minister of National Defence, Greece) and C. Petrides (Minister of Defence, Cyprus), highlighted the critical importance of the latest challenges in the energy landscape and its geopolitical and security parameters. M&A Law Firm would like to congratulate everyone involved in the organization of this leading Conference that matched the core fields of its specialization in particular energy, infrastructure, privatizations and legal and regulatory aspects in all network bound sectors of the economy.

❖ **M&A Law Firm** acts as legal advisor, contributing to the successful closing of a complex takeover of a significant PV portfolio in Greece by our clients, a German Private Equity Fund. The legal work includes targeted legal advice on all legal aspects of the envisaged transaction and the negotiation with the financial institutions involved in the project.





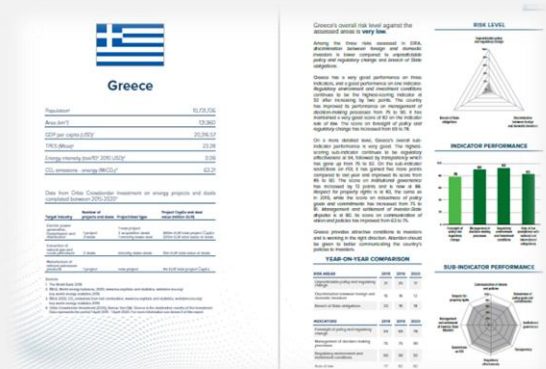
# Metaxas & Associates Law Firm

- ❖ **M&A Law Firm** had the privilege to be invited for a third consecutive year to act as expert Law Firm for Greece to be part of the distinguished team of energy experts that prepared the Energy Investment Risk Assessment (EIRA) 2020 report, which is a publication of the Energy Charter Secretariat that evaluates specific risks affecting energy investment that can be mitigated through adjustments to policy, legal and regulatory frameworks in 30 countries spanning Africa, Asia, the Americas, and Europe.

The EIRA 2020 report (available here: <https://eira.energycharter.org/>) was launched virtually on 6 October 2020, due to the Covid-19 outbreak. The presentation followed by interventions from high-level speakers representing governments, the energy industry, legal experts, international financial institutions and academia.

It is noteworthy that a special reference was made on Greece concerning its lowest risk of unpredictability upon all countries in the report. The risk of unpredictable policy and regulatory change has reduced in 18 of the 26 countries that participated in EIRA previously. Greece showed the most improvement since last year. This is partly due to the adoption of its National Energy Climate Plan (NECP) and the Long-Term Strategy for 2050. The NECP sets a target of phasing out lignite power generation by 2028, which is considered as a crucial achievement.

- ❖ **M&A Law Firm** has been hired by a major industrial client to act as its legal advisor for its strategic partnership with the new natural gas supplier in Greece. The legal work included in depth drafting and revising of complex contractual documents that led to this successful closing.



## EC approval on the extension of two electricity capacity market schemes in Greece

The European Commission has approved, under EU state aid rules, the prolongation for a limited period of two Greek measures, a flexibility mechanism and an interruptibility scheme, to support the transition to the new electricity market design. Under the flexibility mechanism, which was initially approved by the Commission on 30 July 2018 (SA 50152), flexible power capacity providers such as gas-fired power plants, flexible hydro plants and demand response operators can obtain a payment for being available to generate electricity or, in the case of demand response operators, for being ready to reduce their electricity consumption.

This flexibility in power capacity will allow the Greek transmission system operator (TSO) to cope with the variability in electricity production and consumption. Under the interruptibility scheme, which was initially approved by the Commission on 07 February 2018 (SA. 48780), Greece compensates large energy consumers for agreeing to be voluntarily disconnected from the network when security of electricity supply is at risk, as happened for example during the gas crisis of the period December 2016/January 2017.

Greece notified to the Commission its intention to prolong the flexibility mechanism until March 2021, and the interruptibility scheme until September 2021. The Commission assessed the two measures under the Guidelines on state aid for environmental protection and energy 2014-2020 and found that the prolongation of the two measures is necessary for a limited period of time, in view of the on-going reforms in the Greek electricity market. It also found that the aid is proportionate because the remuneration of beneficiaries is fixed through a competitive auction, and thus avoids overcompensation.

On this basis, the Commission approved the measures under EU State Aid rules. More information will be available on the Commission's competition website, in the public case register, under the case number SA.56102 and SA.56103.



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## EC approves a €1.5 billion Greek scheme to support micro and small enterprises in 12 regions affected by Covid-19 outbreak

The European Commission has approved a €1.5 billion Greek scheme to support micro and small enterprises active in 12 regions affected by the coronavirus outbreak. The scheme was approved under the State Aid Temporary Framework. The 12 regions concerned are Attica, Central Greece, Crete, Eastern Macedonia and Thrace, Epirus, Ionian Islands, North Aegean, Peloponnese, South Aegean, Thessaly, Western Greece, and Western Macedonia.

The public support will take the form of direct grants for working capital as a percentage of the expenses that beneficiaries incurred in 2019. The maximum percentage of the company's expenses to be subsidised is 50%. The purpose of the scheme is to support micro and small enterprises that are facing a sudden liquidity shortage due to the coronavirus outbreak. The scheme will be open to all micro and small enterprises except those active in

- The Financial sector,
- The primary production of agricultural products and the fishing and aquaculture sector
- The intellectual property rights licensing contracts for trademarks or signs and commercial know-how
- Offshore companies and legal entities governed by public law.

The Commission found that the Greek scheme is in line with the conditions set out in the Temporary Framework. In particular, the total aid received by beneficiaries will not exceed €800,000 per company, as provided by the Temporary Framework. The Commission concluded that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State, in line with Article 107(3)(b) TFEU and the conditions set out in the Temporary Framework. On this basis, the Commission approved the measure under EU State aid rules. More information on the Temporary Framework and other actions taken by the Commission to address the economic impact of the coronavirus pandemic can be found in the State Aid register on the DG-COMP's website, once any confidentiality issues have been resolved.



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*The non-confidential version of the decision will be displayed in the State Aid register on the DG-COMP's website under the case number SA.58616 (Prolongation of the Greek regional aid map for the period 1.1.2021-31.12.2021) as soon as it has been cleansed of any confidential information.*



## 2020 Strategic Foresight Report: Towards a more resilient Europe

This first annual Strategic Foresight Report, Strategic Foresight - Charting the course towards a more resilient Europe, presents the Commission's strategy to integrate strategic foresight into EU policy-making. It identifies first lessons from the COVID-19 crisis, introduces resilience as a new compass for EU policy-making and discusses the role of strategic foresight in strengthening the resilience of the EU and its Member States. The report analyses resilience along four interrelated dimensions – social and economic, geopolitical, green and digital – and explains its importance for achieving our strategic long-term objectives in the context of the digital, green and fair transitions.

Embedding strategic foresight into the EU policy-making will enable the European Commission to:

- Build and use collective intelligence to anticipate developments and prepare for new opportunities and challenges earlier and more effectively.
- Ensure strategic foresight becomes an integral part of the Better Regulation toolbox, including ex ante impact assessments, and supports the Regulatory Fitness and Performance Programme.
- Undertake in-depth and participatory foresight exercises on major initiatives aimed at informing the annual State of the Union address, Commission Work Programmes and multi-annual programming exercises.
- Foster foresight cooperation and alliances with EU institutions and partners, Member States and other key stakeholders.

The COVID-19 crisis has made clear that Europe needs to enhance its resilience – which is the ability not only to withstand and cope with challenges but also to undergo transitions in a sustainable, fair and democratic manner. This Communication shows how forward-looking policies supported by strategic foresight will contribute to this. It can help anticipate developments likely to have adverse impacts, to strengthen corresponding resilience through structural changes as well as taking into account the impact of current and future crises on relevant megatrends and emerging issues. Policies benefiting from strategic foresight can better mitigate the vulnerabilities and strengthen the capacities revealed by the crisis, opening new opportunities and making Europe more resilient.



*The report analyses resilience along four interrelated dimensions – social and economic, geopolitical, green and digital – and explains its importance for achieving our strategic long-term objectives in the context of the digital, green and fair transitions.*



## EU Commission's Assessment of National Energy & Climate Plans

On 17 September 2020 the EU Commission launched its cumulative evaluation of the National Energy & Climate Plans (NECPs), namely the 10-year schemes encompassing national measures aimed at ensuring compliance with the EU's existing energy and climate targets for 2030, submitted by the end of 2019, following the Commission's observations and recommendations on the formerly filled draft plans.

This report considers the cumulative impact of the different elements foreseen in the NECPs – namely for renewables, energy efficiency, greenhouse gas emission reductions, the internal EU energy market, and research & innovation ambitions. Detailed assessment of each national plan will follow during October together with guidance on implementing the NECPs.

The assessment shows that the EU is already on track to surpass its current 2030 greenhouse gas emissions reduction target of 40%. The Commission sees this as a springboard for raising our ambition for 2030, as outlined in the Climate Target Plan. For renewable energy, the combined commitment by Member States is estimated to be above the existing renewable energy target of at least 32%. As far as energy efficiency is concerned, although the ambition level is higher than in the draft NECPs, the cumulative impact of the different NECPs still falls short of the existing energy efficiency target of 32.5%.

In order to meet the EU's existing energy and climate targets for 2030, EU Member States were required to establish a 10-year integrated national energy and climate plan (NECP) for the period from 2021 to 2030. Introduced under the Regulation on the governance of the energy union and climate action (EU/2018/1999), the rules required the final NECP to be submitted to the Commission by the end of 2019. These final NECPs followed on from a Commission assessment and country specific recommendations about the draft NECPs that were published in July 2019.

It is noteworthy that this assessment was published at the same day together with the implementing rules for the new EU renewable Energy Financing Mechanism that will support renewable energy projects, as foreseen under Article 33 of the Governance Regulation (EU) 2018/1999 of the Clean Energy for all European package, and will become operational from January 2021.



*"The energy system will be at the heart of the green transition in Europe. The National Energy and Climate Plans Assessment that we have presented today show that our Member States are able to surpass our goals. Now we must go to the next level together and develop a more secure and resilient energy system, with more renewable energy generated in the EU." Kadri Simson, Commissioner for Energy*





# Metaxas & Associates Law Firm



**METAXAS & ASSOCIATES**  
ATTORNEYS AT LAW

**154 Asklepiou Str.**

**114 71 Athens, Greece**

**Tel.: +30 210 33 90 748**

**Fax.: +30 210 33 90 749**

**E-mail: [info@metaxaslaw.com](mailto:info@metaxaslaw.com)**



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