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LEGAL OPINION

Off shore companies – Legal status in Greece

An individual had incorporated an offshore entity to act as treasury company for amounts saved. After his death, the shareholders of the company were his wife and three children. The company was administered in Greece, and had no other activity.

The wife had withdrawn an amount higher than 25% of the funds deposited, which she donated to the defendants' side. The wife died and the company was dissolved and liquidated, each remaining party receiving 1/3 of the amount left in the account. The plaintiffs, whose share was reduced because of the withdrawals, sued the other shareholders / account holders, who had received donations from the wife, seeking the funds corresponding to their share.

The Court did not accept the withdrawals took place within the context of the company's operation. It considered the company as invalid, and it treated it as a civil partnership without legal status. So, it held that the funds belonged to the individuals appearing as shareholders and, in the absence of any agreement to the contrary, they owned the funds in equal parts. The wife being entitled to her portion only, had no right to withdraw more and the excess amount was recoverable. The shareholders / account holders who received the excess amounts were found liable to return to the plaintiffs the part corresponding to their share (the plaintiffs were heirs of one shareholder/ account holder).

Supreme Court Judgment no 201/2014, Presiding: A. Koutromanos, Rapporteur Judge: Ch. Evangelou, Attorneys at law: K. Koutsoulelos, I. Vrellos, Maritime Law Review vol. 43, p. 38.

NOTE: An offshore company managed in Greece is considered as invalid, except where it is established in Greece under laws 89/67 or 27/75 or are, or were, owners or managers of Greek-flag vessels. In such a case they are ruled by the law of their place of incorporation. In any other case they are considered as de facto partnerships (if they have commercial activity) or, as in this case, as civil partnerships without a legal status.

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