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The Supreme Court of Greece Paves the Way for International ADR

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The Supreme Court of Greece, further to its recent ruling in favor of enforcing international arbitral awards in Greece, issued a second ruling in favor of international ADR. In a recent decision, the Supreme Court found that a major dispute deriving from a contract which contained an arbitration clause with a clear reference to ICC arbitration in Paris (involving both contractual and tort law issues including, inter alia, compensation and damages totaling millions of Euros) is subject to arbitration in its entirety and for all types of disputes.

The facts involve a distribution agreement of a major weapons entity and its contractual obligations vis-à-vis third parties, such as the Greek army and the Greek Pentagon. The parties undertook various obligations following basic tort and contractual law principles of reasonable care and diligence in performance. The agreement contained a classic non-compete clause and an ICC arbitration clause.

When a dispute arose between the parties, leading to the ex parte termination of the contract, the Court of Appeals that examined the facts of the matter held that the competence of the ICC arbitral tribunal should only cover contractual issues with no other liabilities deriving from tort law. The Supreme Court rejected the finding of the Court of Appeals holding that no Greek court should be free to arbitrarily determine which type of disputes (whether based on contract or tort law) are subject to arbitration if a valid arbitration clause exists.

In other words, the Supreme Court found that Greek Courts are not allowed to exclude tort liabilities from being subject to arbitration, when the parties have voluntarily opted for arbitration as a way of resolving all types of disputes and not only contractual disputes.

The mentioned ruling came in favor of ADR in Greece by upholding the parties' decision to resort to arbitration. This decision is particularly important in light of Greece's financial turmoil; it reaffirmed Greece's commitment to ADR, which is an important signal meant to encourage business in the country.


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