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Heavily Indebted Individuals

Law 4336/2015 aims to enhance the legal framework regarding heavily indebted individuals, as established by Law 3869/2010 and amended by Law 4161/2013, with a view to improving its effectiveness and ensuring the adequate fulfilment of its objectives.

First of all, the scope of Law 3869/2010 is extended to the arrangement of debts towards the State, Tax Authorities, Local Authorities and Social Security Organizations. It should be noted that individuals having submitted their debts towards the State to a different procedure of arrangement may choose the procedure provided for heavily indebted individuals. Nevertheless, this is possible only if these debts coexist with debts towards private creditors.

Furthermore, in order to limit the abusive submission of petitions, it is provided that the Secretariats of the Magistrate Courts shall examine the documents submitted and in case of deficiencies, debtors shall be called to provide the requested documents within 15 days, starting from the date of the submission of the relevant petition. If the deadline elapses and the required documents haven't been submitted to the Secretariat of the Magistrate Court, no hearing date is set.

Due to the workload of the Courts, about 130.000 petitions are pending and therefore there has been a need for acceleration of the procedure of

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arrangement of debts. In this perspective all debtors who have filed a petition and their case has been pending for over 6 months from the date of the submission of the petition, without having a hearing date set and in case no judicial settlement has been reached, shall submit updated documents regarding their petition. Also, all debtors who have filed a petition and the hearing hasn't been set within 3 years from the date of entry into force of Law 4336/2015, shall submit within 4 months from the date of entry into force of the abovementioned law, a petition for the setting of a new hearing until the end of 2018. If debtors fail to submit a petition, the Court shall set a new date for the hearing. Finally, the acceleration of the procedure shall be accomplished by the establishment of new departments at the Magistrate Courts dealing with heavily indebted individuals cases.

A Procedure for the Express Settlement of Minor Debts has been introduced. This procedure concerns heavily indebted individuals who cumulatively fulfill the following conditions at the time of the submission of the petition: i) the total amount of their debts doesn't exceed the amount of 20.000 €, ii) they don't have any income, iii) they don't dispose property, iv) they haven't transferred or sold any assets within the last year, v) their property and their bank deposits don't exceed the amount of 1.000 €, vi) there are no secured creditors and vii) they have proved to be cooperative debtors according to the terms of the

Code of Conduct (however the fulfillment of the last condition is required as regards to petitions submitted from 2016 onwards).

For the debtors fulfilling the abovementioned conditions, Law 4336/2015 provides the following: i) direct discharge of debts, ii) an 18 month surveillance period during which, any change of property status shall be immediately brought to the attention of the creditors and the Court, iii) in case of change of their property status, debtors are entitled to request an amendment of the judgment. However, it should be noted that any concealment of change of the debtor's property status results into the lifting of the discharge of debts.

Apart from the criterion of the "cooperative debtor" as defined by the Code of Conduct, Law 4336/2015 introduces other criteria as well. The first one is the criterion of "reasonable living expenses" of the debtor and his family, as these expenses are defined by the Hellenic Statistical Authority and they are taken into consideration in order to set the creditors' monthly installments. On the other hand, new criteria are set for the protection of the debtor's main residence which consist into: i) the debtor's income, ii) the value of the debtor's main residence and iii) the total amount of his debts. However, the criteria limits shall be set by a ministerial decision.

Finally, in case the debtor delays the payment of the monthly installments according to the judicial settlement or provided by the provisional order for over 3 months in total, the Court may recall the provisional order. Any interested creditor shall submit a relevant petition within 4 months from the date on which the reason justifying the recall of the provisional order occurred.