

## Deviations from the letter of the law are allowed when the investor's interest is taken into consideration ("The case of Elliniko")!

An interesting and fresh legal approach arises from the act of elaboration (Πρακτικό Επεξεργασίας) number 29/2018 of the Council of the State (in full session), on Presidential Decree "Approval of the Completed Development Plan of the Metropolitan Pole of Elliniko- Agios Kosmas of the Attica region".

The session of the Council was conducted within the context of the advisory competence of the Council of the State, as provided in paragraph 1d of article 95 of the Constitution, in plenary session, due to the subject's importance.

The text of the act refers to various legal provisions that apply on the intended project, some of which may not agree with the content of the Presidential Decree under consideration. However, in par.46 when it refers to the general restriction of the very high building, of the abovementioned opinion it is stated that: "The deviations from the

urban planning provisions provided by L.4062/2012, as regards to the entities, the building conditions, the possibility of tall buildings construction, the procedure and in general the conditions for the exploitation of the particular area, are justified for the service of public interest ("intense" as required by the law), which in this case is the creation of a metropolitan pole with multiple uses, with national range and international reference, as a green park in Attica which will bring development to the area and serve other purposes as well, such as to "tackle" the economic crisis, the reduction of unemployment and poverty, the enforcement of the social cohesion, the reduction of the public debt and the conversion of Athens to an international touristic pole of attraction, with significant economic and business development."

Considering all of the above, the Council of the State concludes that under specific conditions, it is allowed for the investor of

Elliniko to construct very tall buildings of special and unique architectural design techniques, as provided by the draft of the Decree.

Furthermore, in paragraph 80, the Council stipulates that the provision of article 8 of the Draft Decree, according to which when the Presidential Decree will be set in force, all other legal provisions contrary to the provisions of the Decree will be abolished.

As it stems from the above the Council of the State chose a “flexible” and “investment friendly” approach towards the provisions of the Act of Elaboration, regarding the urban planning law sections, in order to secure better serving of purposes of public interest via private investments. This new fresh approach of the Supreme Administrative Court is encouraging to every potential investor that would previously hesitate to invest in Greece, due to the difficulties presented in the past within the urban-planning approval procedure.

### Contact

For any further comment or query, please contact the KG lawyer you are in contact with or the Public Law practice team.



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