

July 2021

Employment Newsletter

Major reforms in employment legislation introduced by Law 4808/2021

Greek Law 4808/2021, published in the Government Gazette on 19.06.21, introduced significant changes aiming to modernise domestic employment law in view of the new economic, social and technological challenges and increase the competitiveness of Greek enterprises. In our newsletter we set out the main changes introduced with regard to individual employment relationships.



Violence and harassment in the workplace

Greece ratified ILO's Convention No 190 concerning the elimination of violence and harassment in the workplace.

To this end, various new measures are introduced and new rights and obligations are established, including the right of the employee who suffers such behavior to leave the workplace for a reasonable period of time, without any salary loss or other consequences, and the obligation of employers with more than 20 staff members to adopt written policies (a) to prevent and combat harassment and violence in the workplace and (b) to handle internal complaints. To be noted that said protection is afforded, regardless of the contractual relationship with the employer, not only to employees, but to every person that provides his/her services at the workplace, including independent contractors, interns and volunteers.

Special leave entitlements and flexible working arrangements for parents and carers

Greece transposed Directive (EU) 2019/1158 on work-life balance for parents and carers, which lays down minimum requirements designed to achieve equality between men and women with regard to labour market opportunities and treatment at work, by facilitating the reconciliation of work and family life for working parents or carers. Also, new forms of leaves are introduced, e.g. on grounds of force majeure, while already existing types of leaves are further enhanced and codified, the most notable being the extension of paternity leave from 2 to 14 days and the introduction of a state subsidy during half of the 4-month parental leave. The new law further provides for the employee's right to ask for flexible working arrangements, such as teleworking, flexible working hours or part-time employment.

Working time issues

Working time

The new law provides that full-time employment corresponds to 40 working hours per week which can be allocated to 5 days (i.e. 8 hours per day) or 6 days per week (i.e. 6 hours and 40 minutes per day), in accordance with the applicable statutory provisions, collective labour agreements or arbitration awards.

Overtime

The daily maximum limit of overtime is increased (from 2) to 3 hours per day, while the annual limit is increased (from 120) to 150 hours of overtime work.

"Illegal" overtime must be compensated at a 120% surcharge on the employee's contractual hourly wage as increased from 80%.

Organisation of working time

In case no union or works council exists or no agreement is reached between them and the employer, the organisation of working time, in accordance with article 41 of Law 1892/1990, can also be implemented by individual agreement at the employee's request.

Break

A break of 15 to 30 minutes must be granted when the daily working hours are more than 4 consecutive hours, as opposed to the threshold of 6 hours which applied before. The break cannot be combined with/be used at the start or at the end of the daily working hours.

Part-time employees

Subject to the daily rest period restrictions, extra work by part-time employees can be performed at any point during the day, i.e. it is not required to commence at the end of the employees' regular daily working hours, while the hourly compensation for such extra work continues to be subject to a 12% surcharge.

Carry over of annual leave

Employees may use their annual leave entitlement up to the end of March of the next calendar year, introducing a carry over right for the first time.

Unpaid leave

As opposed to the past, unpaid leave is now officially regulated and can be granted for up to 1 year upon written agreement of the parties, with a right of extension. During the unpaid leave the employment contract is suspended and no social security contributions are due.

Work on Sundays and public holidays

The categories of employers/employees who are exempted from the prohibition to work on Sundays and public holidays, either fully or following the permit of the labour authorities, are extended to cover, indicatively, transportation services, shared services centers, data centers etc.

General legal framework on termination

Termination process for blue-collar employees

As of 1 January 2022, blue-collar employees will be subject to the same termination requirements as white-collar employees, including the same amount of severance indemnity, which under the previous legal framework was significantly lower than white-collar employees.

Garden leave

In case of termination with prior notice, the employer is allowed to release the employee from his/her obligation to provide work up to the effective termination date. During such period the employee will be entitled to his/her normal remuneration, while he/she may assume alternative employment without this impacting the validity of the termination or the amount of severance indemnity due.

Termination

The new law introduces, for the first time, a list of prohibited reasons for termination, including termination on discrimination grounds, vindictive termination following the exercise by the employee of his lawful rights and terminations that are contrary to applicable legislation, such as collective dismissals, termination of pregnant employees or union officials, in cases of harassment, during the employee's annual leave etc.

If the termination of employment is challenged based on one of the specific grounds explicitly prohibited by law, then the burden of proof is reversed and the employer is required to provide substantial evidence in court in order to prove that the termination took place for reasons other than those invoked by the employee. In such cases, instead of challenging the termination as invalid and claiming reinstatement and payment of back salaries, the employee is entitled to ask the court to adjudicate an additional amount of compensation, which cannot be less than the employee's regular emoluments of three months or more than double the legal severance indemnity due to the employee.

If the termination is not in line with the general legal framework, without, however, falling under the cases explicitly prohibited by law, e.g. if the employee is terminated for redundancy or performance reasons, then the court, upon either the employer's or the employee's request, instead of any other legal consequence, will adjudicate in favour of the employee an additional amount of compensation, as described above. The above constitutes a novel provision of the new law that operates as an alternative to reinstatement and payment of back salaries, which has been a serious liability for employers in termination cases.

Termination of trade union officials

As opposed to the previous legal framework, which allowed the termination of protected union officials only in specifically listed cases, under the new law said employees may be terminated for any "serious cause" (as such notion is defined in the law), thus providing more flexibility for employers, while the termination is no longer subject to the prior permission of a special committee.

New framework on telework

Telework remains in principle voluntary both for the employee and the employer. The new law introduces, however, two exceptions of unilateral application.

Employers may, on grounds of protection of public health and for the duration of such grounds, unilaterally impose remote working on employees.

In the event of a well-documented risk for the employees' health that can be avoided if they provide their work remotely and for the duration of such risk, employees are entitled, upon their request, to provide work under a system of remote working.

Employers remain obliged to bear the costs incurred by the employee due to telework, including to provide, install and maintain the necessary equipment, to provide technical support and to compensate the employee for the use of his/her home for work purposes. The new law establishes the right of teleworkers to "disconnect", namely to be able to disengage from work and refrain from engaging in work-related electronic communications, such as emails, telephone calls or other messages, outside normal working hours or during vacation time.

Employers are explicitly prohibited from monitoring the performance of teleworkers with the use of web cams.

The above framework is not fully applicable yet as special legislation is expected to regulate various aspects of its implementation, such as health and safety requirements, compensation due to employees, notification obligations etc.

ERGANI II - digital employment card

The existing ERGANI platform will be upgraded and renamed to "ERGANI II".

Employers are required to install and operate an electronic system for the monitoring of their employees' working time with online interconnection with the "ERGANI II" platform. The new law also provides for the introduction of the so called "digital employment card", which will provide real-time data to the "ERGANI II" platform regarding working hours and all changes thereof, including commencement and end of work, breaks, any work provided in excess of lawful working hours and the use of any leave entitlement. Based on the time line published by the Ministry of Labour, the digital employment card is expected to be gradually introduced as from the first semester of 2022.

Covid-19 related measures

Extension of “Syn-Ergasia” mechanism

The “Syn-Ergasia” mechanism, pursuant to which eligible employers may reduce up to 50% the working hours of employees, with the State covering part of salary losses, will remain in force until 30 September 2021.

Carry over of annual leave entitlement for employees under suspension

By way of exception, employers with employees whose contracts have been suspended as of March 2020, either continuously until 30 June 2021 or periodically, may carry over the total or the remaining of the employees’ 2020 leave entitlement until 31 December 2022.

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