

Greece amends Labor Law provisions

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Greece's recent Law 4635/2019 introduces important amendments to the labor law legislation. The key provisions of the respective articles of the new legislation are summarized below.

Chapter A of the part IB "Collective Labor Relations"

- **Article 53** introduces paragraph 8 into article 3 of the Law 1876/1990, according to which National or Local Collecting Labor Occupational Agreements or Sectoral Collective Labor Agreements may provide for special separate provisions (or exclude from their own field of application) employees who are employed by special categories companies such as social economy enterprises, non-profit legal entities and businesses facing serious financial problems, such as insolvency or bankruptcy or out-of-court settlement processes. A decision of the Minister of Labor, following the opinion of the Supreme Labor Council, will specify each time the criteria for the companies which are exempt from the application of these collective agreements and any other relevant matter.
- **Article 54** introduces electronic voting as the manner of voting for decisions (including decisions to declare a strike) of the general assemblies and other bodies of the Trade Unions. By decision of the Minister of Labor, the criteria for the adoption of the electronic vote will be specified.

- **Article 55** provides that in undertakings that face serious financial troubles, the company collective labor agreement shall prevail over the sectoral one (introducing an exception to the general rule regarding the supremacy of the sectoral collective labor agreement in relevant cases). The decision of the Minister of Labor will specify the criteria for applying the above provisions. It is also foreseen that the local occupational or sectoral collective labor agreement prevails over a corresponding national occupational or sectoral collective labor agreement.
- **Article 56** tightens the legal framework for declaring a collective labor agreement (or arbitration decisions) as generally mandatory. More specifically, the Supreme Labor Council should first justify the necessity of the extension and then the Minister of Labor should further validate this by issuing a respective Ministerial Decision. It is expressly stipulated that the extension of the collective labor agreement shall be effective from the date of the publication of the Ministerial Decision in the *Government Gazette* and that it shall expire three months after the collective labor agreement has expired. It is also envisaged that certain undertakings may be exempted from the commitment arising out of the extension of validity, following a decision by the Minister of Labor, in particular as a measure to save positions of employment at risk.
- **Article 57** makes unilateral recourse to arbitration more difficult (especially by workers' unions) following the failure to establish a collective agreement on consensual terms.

In particular, arbitration may take place at any stage of the negotiations with a respective agreement between the representatives of employers and employees. Arbitration may be applied unilaterally by any party as a last resort to resolve collective labor disputes only in the following cases:

- a. If the collective dispute relates to undertakings of public interest, the operation of which is vital to the basic needs of the society.
- b. If the collective dispute relates to the conclusion of a collective labor agreement and the negotiations between the parties fail definitively and the anticipated resolution is connected to a general social or public interest linked to the function of the Greek economy.

Chapter B' of the part IB' "Individual Labor Relations"

- **Article 58** expressly states that as unilateral change of the working conditions is considered also to the delay of more than two months in the payment of salary by the employer, irrespective of the cause of the delay, whereas the previous rule (as defined by article 56 of Law 4487/17) provided that as unilateral damaging amendment was considered to be "the significant delay in the payment of the salary."
- **Article 59** stipulates that if work is provided beyond the agreed (reduced time), the part-time employee shall be entitled to a corresponding remuneration grossed up by 12% on the agreed remuneration for each additional working hour. The part-time employee may refuse to provide work beyond the agreed time when this additional work is normally carried out (obviously in a way that leads to - in practice - the adoption of full-time work). This additional work may be carried out up to the limit of a daily full-time working period.
- **Article 60** stipulates that contracts for independent services provided by freelancers to up to two client - employers shall also be announced to ERGANI, for which article 39 par. 9 of the Law 4387/2016 already provides that they may qualify for social security classification purposes as dependent employees. Similarly, an announcement should be made for those who are paid with ERGOSIMO (Daily Social Security Coverage). The terms of application of this provision shall be specified by decision of the Minister of Labor.
- **Article 61** provides that undertakings established in the United Kingdom that, in the context of international services, have already posted workers within the territory of Greece by the date of the United Kingdom's departure from the European Union or are expected to post workers thereafter (following the date of the United Kingdom's departure from the European Union), shall be subject until 31 December 2020 to the relevant provisions of Presidential Decrees 219/2000 and 101/2016, concerning the obligations of companies posting personnel in Greece.
- **Article 63** stipulates that the validity of the National General Collective Labor Agreement (which expired following its mandatory six-month extension on 30 June 2019) is extended until the conclusion of the new National General Collective Labor Agreement, otherwise until 31 December 2019.

Chapter C of the part IB' "Measures Related to non-declared employment"

- ▶ **Articles 65, 66 and 67** readjust the administrative penalties in the event of undeclared employment, in the sense that the respective fine of €10,500 for each undeclared employee remains, but the fine discount in the event of an official hire of the non-declared employee are modified. It is expressly stipulated that the Labor Auditor who has identified the undeclared employee is obliged to order at least one re-audit of employer within 12 months from the date of the infringement's ascertainment, in order to check for any recurrence.
- ▶ The "ERGANI" electronic information system of the Ministry of Labor shall create a "Register of Offenders for Undeclared Employment," that will record employers in general, both natural and legal persons, who are subject to employment penalties for non-declared employment. Employers who are in breach of the law will be excluded from favorable insurance arrangements. It is stipulated that the terms of application of these provisions shall be specified by a decision of the Minister of Labor.

Chapter D of the part IB' "Social Security Provisions"

- ▶ **Article 69** stipulates that employers who include personnel in the Analytical Periodical Declarations of Social Security Contributions without paying the current monthly social security contributions, are subject to the compulsory collection measures provided by Public Revenue Collection Code, and to the suspension of the use of the on line system of EFKA for the submission of suspend for employers the use of EFKA's electronic services for submission of Analytical Periodical Declarations of Social Security Contributions.

Part K' "Other provisions"

- ▶ **Article 148** provides as an additional category of a business whose employees may be legally employed on Sundays, without the prior authorization from the Labor Inspectorate, the freight distribution centers which supply retail stores.

For additional information with respect to this Alert, please contact the following:

Platis - Anastassiadis & Associates Law Partnership, Athens

- ▶ Eirnikos Platis eirnikos.platis@gr.ey.com
- ▶ Maria Rigaki maria.rigaki@gr.ey.com

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