

Recent legislative developments in Greek employment law

This newsletter sets forth the employment law changes introduced by Law 4472/2017 and Ministerial Decision 22528/430/17.05.2017. The most important of the new changes relate to the framework of collective redundancies and especially the role of the Greek authorities in the consultation process, which has been a matter of severe criticism for many years.

In this issue:

▪ Changes in the legal framework of collective redundancies	1
▪ Suspension of collective labour rights	2
▪ Permitted reasons for the termination of union officials	3
▪ Special leave for union officials	3
▪ Litigation proceedings in case of a strike	3
▪ Obligation to pay salaries via bank account	3

Changes in the legal framework of collective redundancies

Under Greek law (Law 1387/1983) collective redundancies are those which are effected for reasons that are not related to the individual employees concerned, where the number of redundancies exceeds per calendar month:

- 6 redundancies, for companies with 20 to 150 employees;
- 5% of the company's employees (and up to a maximum of 30 redundancies), for companies with more than 150 employees.

Prior to implementing the collective redundancies, the employer is under the obligation to follow a special information and consultation procedure set out in the law. Under the previous legal regime, if the employer and the employees' representatives failed to reach an agreement during the consultations, the collective redundancies could only proceed following the approval of the authorities (the Prefect or the Minister of Labour).

Law 4472/2017, taking also into account the recent decision of the Court of Justice of the European Union on the case of *Anonymi Geniki Etairia Tsimenton Iraklis (AGET Iraklis)*, amends the consultation procedure of collective redundancies as follows:

- The duration of the consultations is extended from 20 to 30 days.
- Under the new law the employer may submit a social plan for the affected employees during the consultations. The social plan may include measures for mitigating the consequences of the redundancies for the employees, such as coverage of self-insurance costs, training and outplacement services, utilisation of state programmes against unemployment and possibilities for redeployment. Furthermore, the employer is obliged to submit all supporting documentation not only to the employees' representatives (which applied also under the previous legal regime) but also to the Supreme Labour Council – a special committee within the Ministry of Labour that consists of an equal number of representatives from the State, the employees' associations and the employers' associations.
- Upon completion of the consultations, the employer must submit the consultation minutes to the Supreme Labour Council (the Council). If an agreement is reached during the consultations, the redundancies can proceed accordingly following a lapse of 10 days from the submission of the consultation minutes. If no agreement is reached, the Council must issue a decision within 10 days from the submission of the consultation minutes regarding the employer's compliance with the information and consultation obligations. Prior to issuing its decision, the Council can hear the parties involved as well as technical experts. If the decision of the Council finds that the employer has complied with its information and consultation obligations, the redundancies can be implemented after a lapse of 20 days from the Council's decision. If not, the Council can either extend the consultations or set a deadline for compliance. If the Council then finds that the employer has met its obligations, the redundancies can be effected after the lapse of 20 days from the Council's (new) decision. In any case, the redundancies become effective 60 days after the submission of the consultation minutes to the Council.

Suspension of collective labour rights

Pursuant to a general principle of Greek labour law, when an employment relationship falls under the ambit of two or more Collective Labour Agreements (concurrency), the CLA which is most favourable to the employee prevails. The application of the above principle had already been suspended by Law 4024/2011 which provides that – regardless of whether their terms are more or less favourable to the employees – CLAs which are entered into at sectoral or company level prevail over CLAs entered into at professional level, while CLAs at company level prevail also over sectoral CLAs, for as long as Greece's Midterm Fiscal Strategy Framework is in force. Similarly, Law 4024/2011 had suspended - for the same duration - the possibility of the Minister of Labour to declare a sectoral or professional CLA as generally applicable to all employers and employees of the specific sector/profession, on condition that the CLA covered at least 51% of the sector or profession's employees.

Under new Law 4472/2017, the suspension of the above collective labour rights will continue until the expiry of Greece's Economic Adjustment Programme, which is expected on 20.08.2018.

Permitted reasons for the termination of union officials

Under Greek law designated union officials are protected from dismissal throughout the term of their office and for one year following its lapse. Dismissal during the protection period requires the prior approval of a special (state) committee and is allowed only for specific reasons set out in the law, such as the assault or slander against the employer or the disclosure of confidential information. Law 4472/2017 introduces two additional reasons which allow the dismissal of this special category of employees, as follows:

- (a) theft or embezzlement against the employer or its representative;
- (b) unjustified absence of the employee which exceeds 3 days.

Special leave for union officials

Law 4472/2017 consolidates the legal framework on the special leave entitlement of union officials in order to provide more clarity. The new legal framework applies to both private and public sector employees and provides for different types of leave, both paid and unpaid, depending on the classification of the relevant employees' organisation and the position held by the union official.

Litigation proceedings in case of a strike

Under the existing legal framework the majority of disputes arising from a strike are subject to the special (expedited) procedure of labour disputes. Law 4472/2017 provides that salary disputes arising from the non-payment by the employer of the employees' salaries due to a strike are also subject to the same procedure of labour disputes, thus allowing the more expedited resolution of such disputes.

Obligation to pay salaries via bank account

Pursuant to Ministerial Decision 22528/430/17.05.2017, effective 1 June 2017, employers are under the obligation to make salary payments to private sector employees exclusively via deposit into the employees' bank accounts. Non-compliance with the above obligation is subject to fines from Euro 300 to Euro 50,000.

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