

## Recent reforms in employment legislation introduced by Law 4635/2019

**Greek Law 4635/2019, published in the Government Gazette on 30 October 2019, introduced various measures pertaining to both collective and individual labour matters.**

### A. Collective labour relations

#### **Creation of special Registries of trade unions and employers' organisations**

In an effort to increase transparency as regards the identity and representation power of unions and employers' organisations, Law 4635/2019 provides for the creation of special Registries with the Ministry of Labour, where all trade unions and employers' organisations, especially those that conclude collective labour agreements, must register.

The details for the operation of the above Registries will be determined by Ministerial Decision.

#### **Introduction of electronic voting in collective decision-making**

Pursuant to the new law, the decisions of the competent administrative bodies of trade unions and employers' organisations, including those calling for strike action, may also be taken by electronic voting.

The details for the implementation of the electronic voting system will be determined by Ministerial Decision.

#### **Derogations from professional and sectoral collective labour agreements**

Law 4635/2019 provides that the social partners can agree on clauses which allow for derogations from particular terms of professional or sectoral CLAs for specific categories of employers, such as social economy enterprises, not-for-profit organisations and enterprises facing serious financial problems.

A Decision by the Minister of Labour, issued after obtaining an opinion from the Supreme Labour Council, shall specify the types of enterprises and determine the issues where derogations are allowed.

## Concurrence of collective labour agreements

Pursuant to a general principle of Greek labour law, in case of “concurrence”, i.e. when an employment relationship falls under the ambit of two or more collective labour agreements, the CLA that is most favourable to the employee prevails. By way of exception, Law 4635/2019 provides that in cases of enterprises with serious financial problems, CLAs applicable at company level, regardless of whether their terms are more or less favourable to the employees, shall prevail over the respective sectoral collective labour agreements, provided that the latter do not include derogation clauses, as described above.

A Decision by the Minister of Labour, issued after obtaining an opinion from the Supreme Labour Council, shall specify the types of enterprises and set out the details for the implementation of the above.

Furthermore, Law 4635/2019 provides that professional or sectoral CLAs at national level do not prevail over the respective collective labour agreements at regional level.

## New requirements for the extension of sectoral and professional collective labour agreements

Under the previous legal regime, the Minister of Labour was empowered, on its own initiative, to declare a sectoral or professional CLA as generally applicable to all employers and employees of the specific sector/profession, on the sole condition that the CLA covered at least 51% of the sector or profession’s employees.

The new Law adds the following requirements for the extension of a sectoral or professional CLA:

- Filing of an application to the Minister of Labour by any of the parties already covered by the CLA, accompanied by supporting information on the impact of such extension on competitiveness and employment.
- Issuance of a written opinion by the Supreme Labour Council.

Furthermore, under the new Law, enterprises facing serious financial problems can be excluded from the above extension, in whole or in part. A Decision by the Minister of Labour, issued after obtaining an opinion from the Supreme Labour Council, may specify the categories of excluded enterprises and set out the details for the implementation of the above.

## Unilateral recourse to arbitration

Pursuant to Law 4635/2019, unilateral recourse to arbitration is to be considered as a means of last resort, allowed only in the following cases:

- If the collective labour dispute concerns public or utility enterprises.
- If the negotiations for the conclusion of a collective labour agreement fail and there is an overriding social or public interest in resolving the dispute, which is connected to the operation of the Greek economy.

## B. Individual labour relations

### **Provision of extra work by part-time employees**

In an effort to enhance the protection of part-time employees, Law 4635/2019 introduces the obligation of the employer to pay a 12% surcharge on the employee's contractual hourly wage for every hour worked beyond the agreed working schedule. Furthermore, the daily working hours of part-time employees cannot exceed those of comparable full-time employees.

### **Measures enhancing labour market monitoring**

In an effort to enhance labour market monitoring, employers are now obliged to notify through ERGANI all personnel, including those paid via "labour coupon" (ergosimo). The same applies for freelance contracts, in case the freelancer provides his/her services to up to two employers. The relevant provisions will enter into force upon issuance of a Ministerial Decision setting out the details of the notification process and applicable sanctions in case of breach.

### **Delay in payment of salary**

Under the new law, any delay in the payment of salary which exceeds two (2) months, irrespective of its reason, is deemed as a unilateral adverse modification of the employment terms. In such case, the employee is entitled to consider the modification as a (constructive) dismissal and claim severance indemnity.

### **Extension of National General Collective Labour Agreement**

Law 4635/2019 extended the National General Collective Labour Agreement, which was signed on 28 March 2018 and expired on 30 June 2019, retroactively from its expiry date until the execution of a new NGCLA and in any event not beyond 31 December 2019.

## C. Updated sanction system for undeclared work

Under the previous legal regime, for every employee found to be undeclared during a labour inspection the employer was subject to a fine of Euro 10,500, while the employee was presumed by law to have been employed for 3 months (for which social security contributions were due). The employer was also offered a discount on the imposed fine if it hired the undeclared employee under a full-time contract having a minimum duration of three (3) months.

The new law retains the fine for undeclared work at the same level (Euro 10,500 per employee) but abolishes the presumed employment duration of 3 months. Furthermore, the fine is reduced to Euro 2,000 if the employer hires the undeclared employee under a full-time employment contract with a minimum duration of twelve (12) months.

The employer has sixty (60) days to challenge the imposition of the fine before the competent administrative courts.

Law 4635/2019 introduces, finally, the creation of a special electronic Registry for employers fined for undeclared work and a system of mandatory repeat inspections of offenders. Employers registered with the above Registry are excluded from favourable social security arrangements.

The above system will enter into force upon issuance of a Ministerial Decision setting out the details for its implementation.

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