

EMPLOYMENT BRIEFING: Special Edition

## Developments in Employment Legislation

This Briefing provides an overview of Law 4808/2021, published in Government Gazette 101A/19.06.2021, which introduces some important changes to employment legislation, ratifies International Labour Organization Conventions 190 and 187 and transposes Directive (EU) 2019/1158.

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balance for parents and carers, which repeals Council Directive 2010/18/EU.

3. Finally, it ratifies Convention 187 of the International Labour Organization (ILO) concerning the Promotional Framework for Occupational Safety and Health.

### **B. Measures and Regulations against Violence and Harassment in the Workplace**

1. The Law prohibits any form of violence or harassment (including sexual or gender-based violence and harassment) that takes place in the workplace or during any work-related travel or communication.
2. Employers are obliged to assist in the prevention and elimination of work-related violence and harassment in the following ways:
  - a. receive, investigate and handle complaints in a prompt and confidential manner, demonstrating zero tolerance towards violence or harassment;
  - b. provide assistance and allow access related to the complaint to any relevant public or judicial authority;
  - c. provide adequate information to employees concerning the dangers of and the means of protection against violence or harassment in the workplace;
  - d. render easily accessible to employees information regarding the available procedures and the competent authorities for filing and handling violence or harassment complaints.
3. Employers must assess psychosocial dangers (including

### **A. Ratification of International Conventions and Transposition of EU Directive 2019/1158**

1. Law 4808/2021 (the Law) ratifies Convention 190 of the International Labour Organization (ILO) concerning the Elimination of Violence and Harassment in the World of Work.
2. It also transposes Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life

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danger of violence or harassment) and take measures for their prevention, control and elimination.

4. The responsibilities of the Occupational Doctor are expanded.
5. Undertakings with more than 20 employees are obliged to adopt policies, the minimum content of which is specified in the Law (Article 9), on:
  - a. the prevention and elimination of violence and harassment in the workplace, which may be part of or accompanied by a policy on equality and prevention of discrimination, with the Law also providing for the obligatory appointment of a designated 'reference person' responsible for providing relevant advice and guidance to employees;
  - b. the handling of internal complaints about violence or harassment incidents by way of a procedure that safeguards the receipt and investigation of such complaints in a manner that protects the victim and their dignity, which may be included in other policies.

These policies may be adopted following collective negotiations, form part of a company's collective labour agreements or Internal Work Regulation, or be adopted by the employer, either following consultation with the employees' representatives if any, or unilaterally.

6. If an employee violates the prohibition of violence or harassment in the workplace, their employer must take all expedient measures to avoid the incident happening again, including but not limited to change of position, working hours, place of work or termination of the employment relationship.
7. Termination of the employment relationship of, or discrimination against, the victim of violence or harassment is strictly prohibited and any such termination is considered null and void.
8. All the above provisions apply not only in the case of private sector employees but also to persons who work in the private sector under a different contractual regime, including but not limited to a project agreement, independent services agreement or salaried mandate, as well as those employed via third party service providers, trainees, interns, volunteers, employees whose employment has expired and persons requesting employment or who are employed unofficially.
9. An employee who is the victim of violence or harassment, even following the termination of the employment relationship during which the incident has taken place, has the right to judicial protection, and may also file a complaint to the Labour Inspectorate and Greek Ombudsman, as well as to the company. They may also stay away from work for a reasonable time, without loss of pay or any negative consequences, if they have a reasonable fear of serious danger to their life, health or safety, and are entitled to

compensation covering their losses and moral damages. Legal entities and associations of persons (*enoseis prosopon*), including unions, have the right, with the written consent of the employee, to file legal actions and lawsuits on their behalf before the courts and administrative authorities.

10. Employers who breach the prohibition of violence and harassment in the workplace are subject to administrative fines.

## C. Work-Life Balance and Family Protection

1. The Law transposing Directive 2019/1158 provides for:
  - a. paternity leave for 14 working days as of the birth or adoption of a child under the age of 8, irrespective of the employee's prior work experience or years of service or marital or family status;
  - b. an individual and non-transferrable right to parental leave for each working parent or person with parental custody of a child for 4 months, which may be taken up until the child becomes 8 years old:
    - i. to be eligible for this, a parent employee must have completed one year of employment with the same employer, unless otherwise more favorably provided for by law, presidential decree, collective labour agreements, arbitral awards, regulations or agreements between the employer and employees;
    - ii. details of the benefit given by the Manpower Organization and the provision of parental leave in different circumstances are specified in Article 28 of the Law). Also, it is provided that parental leave must be notified to the Information System 'ERGANI';
    - iii. parents adopting a child up to the age of 8 are also entitled to parental leave;
  - c. an employee who has completed 6 months of employment is entitled to carer's leave of up to 5 working days per calendar year in order to attend to the needs of a person that requires increased medical care or support due to a serious medical condition;
  - d. working parents or carers are entitled to two paid absences of up to one working day from work per year in cases of urgent (force majeure) family issues, in the event of an illness or accident of the child or the person cared for, where the immediate presence of the employee is required;
  - e. carers or working parents of children of up to 12 years of age may request flexible working arrangements (such as telework, flexible working time or part-time work) for the purposes of caring for their children or dependents; to be eligible, they must have completed 6 months of employment with the same employer (unless more favorable provisions are provided for by law, presidential

- decree, collective labour agreements, arbitral awards, regulations or agreements between employers and employees);
2. The Law also provides for the following amendments to leaves of absence for the protection of the family:
    - a. the right to the post-natal part of maternity leave, as well as to the 6 month special maternity leave provided for by Article 142 of Law 3655/2008, is extended to women who adopt a child aged up to 8 years or become mothers via surrogacy;
    - b. each working parent is entitled (interchangeably with the other parent and irrespective of the type of employment or unemployment of the other parent) to paid childcare leave, for 30 months following the expiration of maternity leave, or the 6 month special maternity leave or the parental leave, as reduced working time; adoptive and foster parents of children aged up to 8 years are also entitled to this; further details, including alternative ways to reduce working time, are provided for in Article 35 of the Law;
    - c. Additional paid leave is provided for:
      - i. parents to keep track of their child's progress at school up to the age of 18 or more if the child has special needs, for hours or a whole day and for up to 4 working days per calendar year;
      - ii. marriage or cohabitation agreement (marriage leave) for 5 working days in the case of a 5 day work week, or 6 working days in the case of a 6 day work week;
      - iii. undertaking pre-natal examinations if they must be undertaken during working hours;
      - iv. cases of serious illnesses of children up to 18 years of age for up to 10 working days per year;
    - d. unpaid leave is provided for up to:
      - i. 30 working days for caring for a child or other dependent in cases of illness or hospitalization for the duration of the illness or hospitalization;
      - ii. 6 days for children or dependents up to the age of three and 8 days thereafter in cases of illness of a child or other dependent;
    - e. parents of children with disabilities who are employed in businesses with over 50 employees are entitled to reduced working hours of one hour a day;
    - f. an additional paid leave of 6, 8 (for two children), and 14 (for more than two children) working days per year is also provided to widowed or single parents, the details of which are provided for in Article 42 of the Law;
    - g. any discrimination against, or termination of the employment contracts of, parents who have requested one of the above rights is prohibited, and in the event of dismissal of an employee who has made use of the above provisions for leaves of absence or flexible work

arrangements, the employer must notify the reasons for the dismissal in writing;

- h. in the absence of a serious reason, the dismissal of fathers is prohibited for a period of 6 months from the birth of their child.

## D. Individual Labour Law Provisions for the Protection of Employment

1. Full-time working hours (40 hours per week) may be distributed across 5 days of 8 hours each or 6 days of 6 hours and 40 minutes each.
2. The application of shorter daily and weekly working hours for full-time work is possible by way of a collective labour agreement, an arbitral award or individual employment agreements.
3. A 4 day working week may also constitute full-time employment, upon specific agreement between the employer and employee (in the context of a working time arrangement provided for under Article 41 of Law 1892/1990).
4. When the continuous workday lasts for more than 4 hours, a break of at least 15 minutes and a maximum of 30 minutes is provided for, which does not constitute working time.
5. Every hour of additional work in the event of part-time employment is compensated at the agreed hourly rate increased by 12%.
6. Overwork (*yperergasia*) is compensated at the agreed hourly rate increased by 20%.
7. The number of lawful overtime hours is increased from 120 to 150 per year and cannot exceed three hours per day. Every hour of lawful overtime is compensated at the agreed hourly rate increased by 40% and every hour that is not in conformity with legal requirements and approval procedures is considered unlawful and compensated at the agreed hourly rate increased by 120%. In the event that the work is absolutely necessary and cannot be postponed, overtime that exceeds the lawful limits of the previous paragraph may be provided and compensated at the agreed hourly rate increased by 60%.
8. If no trade union exists or if no agreement is reached between the trade union and the employer, a working time arrangement system may be applied by way of a written agreement, upon request by the employee. Termination of the employment agreement on the grounds that the employee did not file a request for working time arrangement is prohibited.
9. Annual leave may be taken for every year until completion of the first quarter of the following calendar year.
10. Every full or part-time employee is entitled, upon written agreement with the employer, to unpaid leave of up to one year.

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11. The business categories that are allowed to operate on Sundays are increased and the following business categories in particular have been added:
  - a. courier service providers;
  - b. businesses that produce sanitary or nursing materials;
  - c. supermarket warehouses for the performance of sales contracts concluded online;
  - d. logistics service providers, mainly for the delivery, storage, collection and distribution of goods;
  - e. company group shared services centers;
  - f. company group data centers;
  - g. businesses that offer digitization services;
  - h. help desk and customer support centers;
  - i. concrete and mining materials production businesses; and
  - j. businesses that offer security services.
12. The Labour Inspectorate might also approve work on Sunday for the following purposes:
  - a. diploma or certificate exams;
  - b. legal activities of private schools;
  - c. conservation works of public or private schools; and
  - d. adjustment and update of information systems.
13. With respect to prior notice obligations and other provisions applicable in the case of termination of employment, the distinction between (white-collar) employees and workers (blue-collar employees) is abolished. Law 2112/1920, Law 3198/1955 and any other provision that concerns the termination of white-collar employment agreements shall also be applicable in the case of workers (blue-collar employees). A worker's monthly salary shall consist of 22 daily wages unless they are already paid by way of a monthly salary.
14. Where employment is terminated with notice, the employer may exempt the employee from the obligation to provide work during the notice period, without prejudice to the employee's right to remuneration. In such cases, the employee might initiate an employment relationship with another employer.
15. The days that shall be considered public holidays for all businesses that do not operate on Sundays or public holidays are 1 January, 6 January, 25 March, Easter Monday, 1 May, 15 August, 28 October, 25 December and 26 December. Additional holidays may be established by way of ministerial decisions.
16. Protection from dismissal is provided for and the termination of an employment agreement is null and void in the following cases:
  - a. due to discrimination for reasons of gender, race, skin colour, political ideology, religious or philosophical beliefs, ancestral origin, national or ethnic origin, sexual orientation, age, identity or gender characteristics, disability or participation in a trade union;
  - b. as a result of a reaction to a lawfully exercised employee right;
  - c. as a result of a reaction to a lawful complaint by an employee;
  - d. as a result of a reaction to the exercise of a lawful employee right in the case of violence or harassment in the workplace;
  - e. if the employee is pregnant or has recently given birth, or if the employee is the father of a newborn, unless there is a serious cause for dismissal;
  - f. if the employee has requested leave for family reasons in accordance with C above, or a flexible working time arrangement for the purposes of childcare;
  - g. during paid annual leave;
  - h. if the employee has 4 or more children, is disabled, or is otherwise entitled to high legal protections;
  - i. if the employee is serving in the military;
  - j. if the legal provisions on collective dismissals are not complied with;
  - k. if the employee is a trade union executive, member of the employee council, member of the special negotiation group or the European employee council or employee representative for the protected period, unless there is a serious reason;
  - l. if the termination is due to lawful trade union activity;
  - m. if the termination is due to a refusal by the employee of the employer's proposal for part-time work or work rotation;
  - n. if the dismissed employees have collectively refused a working time arrangement and this refusal does not violate good faith; and
  - o. if the termination is due to the exercise by the employee of the right to disconnect in the case of telework (see below under E).
17. The burden of proof and the consequences of null and void terminations are as follows:
  - a. if a dismissed employee challenges their termination as null and void due to one of the reasons stipulated under par. 16 above, the employer is obliged to prove before the Courts that the termination did not take place for one of those reasons;
  - b. if the termination is unlawful for a reason other than those set out above, upon the request of either the employee or employer, an additional compensation may be awarded to the employee which must not be lower than the employee's three month remuneration or higher than twice the statutory compensation provided for the case of dismissal; this compensation might also be requested by the employee in the case of termination for one of the reasons under par. 16 above, instead of the recognition of the invalidity of the termination and the consequences of

that recognition; in such cases, the action requesting compensation may not include a request for recognition of the nullity of the termination, unless the two requests do not have the same factual or legal basis;

- c. if the termination of an employment agreement is not in compliance with the requirements of Article 5(3) of Law 3198/1955, with the exception of the requirement for severance payment, the termination is rendered valid, if the employer remedies the typical omission within one month of the service of the relevant action or from the filing of a motion for labour dispute resolution; in the event that the specific conditions are fulfilled after the above deadline, the fulfilment is considered as a new termination and the previous termination is deemed non-existent;
- d. if the amount of severance pay is less than the severance pay provided for by the law due to apparent error or reasonable doubt as to its basis of calculation, the termination is not declared null and void but an additional severance pay is ordered.

## E. Provisions on Telework and Other Contemporary Types of Work

1. Telework may be provided for reasons of public health or in the case of specific danger to the health of the employee.
2. Telework-related costs including but not limited to equipment, telecommunication or service costs, shall be borne by the employer.
3. When an employee works via telework, the employer may monitor employee performance only by means that respect the employee's private life and personal data. The use of a web camera for verifying employee performance is prohibited.
4. Teleworkers have a right to disconnect, namely to abstain from any work and communication (via e-mail, telephone etc) outside their working hours or within their annual leave. Any discrimination against teleworkers who have exercised their right to disconnect is prohibited.
5. The notion of 'digital platforms' is introduced, meaning enterprises that act either directly or as intermediaries and use an online platform to connect service providers, enterprises or third parties with users, customers or consumers, and facilitate transactions among them or transact directly with them. Digital platforms are bound with service providers via an employment agreement, an agreement for the provision of independent services or a project agreement.

## F. Provisions Related to the 'ERGANI II' Information System

1. The information system 'ERGANI' is updated to 'ERGANI II' which is available via ΕΨΠ-gov.gr. Information that needs to

be registered with this system includes the conclusion, modification or termination of employment agreements and personnel lists of undertakings. Information on trade union registries is also available.

2. Employers are obliged to keep a tracking system of their employees' working time with ERGANI II which is measured by use of a digital employee card.
3. Employers may submit documents to ERGANI II even after the lapse of the set deadline and may also modify or correct an existing submission.
4. Following the commencement of operation of ERGANI II, the passwords and registries of the Labour Inspectorate, the e-platform of the Social Security Organization (e-EFKA) and the Manpower Organization (OAED) will be unified. Additional unification is provided for the codes of specialisations and professions used by ERGANI, the Public Revenue Independent Authority (AADE), e-EFKA and OAED.
5. ERGANI II interoperates (by operating as a hub) with bodies that are responsible for fighting unemployment, on-going learning and education and the development of skills for entry into and movement within the business arena, and the preparation of professional plans (including but not limited to OAED, the Sector of Employment and Social Economy and the National Organization for Qualification Certification and Professional Orientation). Any further technical issues related to this interoperability shall be determined by a joint decision of the Minister of Labour and Social Affairs and the Minister of Digital Administration.
6. In the case that any overtime or change in an employee's working schedule or in their working time organization is not registered with ERGANI II prior to its taking place, employers shall face sanctions.

## G. Collective Labour Law Provisions

1. Changes introduced by Law 4808/2021 to Collective Labour Law concern, *inter alia*, the categories and registration of trade unions, the right to strike, the ability to conclude a Collective Labour Agreement, the scope of application of Collective Labour Agreements, the conciliation procedure and the judicial review of arbitral awards.

## H. Establishment of 'Labour Inspectorate' as an Independent Authority

1. The Labour Inspectorate becomes an independent authority with full operational independence, with the aim of ensuring the application of employment legislation.

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