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## Newsflash

22 June 2021

### Law 4808/2021 (Official Government Gazette Bulletin A 101/19.6.2021) – Basic provisions of the new employment law

By virtue of the present, we summarize the most important provisions of the new employment law, which are anticipated to significantly affect the employment market. More precisely:

#### ***Ratification of Convention 190 of the International Labour Organization concerning the elimination of violence and harassment in the world of work***

The Convention provides for the obligation of each member to take the appropriate measures for the elimination of violence and harassment (including gender-based violence and harassment) in the world of work (private and public sector, formal and informal economy, urban or rural areas) protecting workforce in its entirety (employees, persons working irrespective of their contractual status, interns, apprentices, workers whose employment has been terminated, volunteers etc.). In compliance with the obligations of each member as provided in the Convention (i.e. obligations to promote the right of every worker to a world of work free from violence and harassment, to adopt regulations and policies to safeguard equality and to take the measures required to safeguard the easy access to appropriate and effective legal means and safe and effective mechanisms for the reporting and resolution of disputes in case of violence and harassment), the law provides for:

- The obligation of the employer to prevent and combat violence and harassment (i.e. receipt and treatment of any claim or report with confidentiality and in such a manner to respect human dignity showing zero tolerance to violence, assistance to the competent authorities in course of such incidents' research, provision to the employees of information on the potential risks of violence and on the related prevention and protection measures, assessment of the psychosocial risks including violence and harassment risks and taking of measures for their prevention and elimination etc.).
- The obligation of employers employing more than 20 employees to adopt a Policy for the prevention and

combat of violence and harassment at work and a Policy for the administration of internal complaints for violence and harassment incidents. The policies in question can take the form of a Business Collective Labour Agreement or Work Regulation or be drafted by the employer following consultation with the representatives of the most representative trade union of the company or with the Work Council and, in case there are no trade unions or Work Council, following updating of the employees and posting of the draft of the policy at the place of work or its notification to receive their opinions. Templates of such policies with the minimum content required by law as well as instructions to the obliged persons will be issued/provided by virtue of a decision of the Minister of Employment and Social Affairs.

- The obligation of the employer to take the appropriate measures against the person having allegedly infringed the prohibition of violence and harassment (i.e. recommendation to comply, change of position/working hours/place and method of provision of work or termination of the employment agreement/relation subject to the prohibition of abusive exercise of the related right).
- The right of the worker having suffered a violence and harassment incident to a) bring the case, in addition to the competent courts, before the employment authorities and the Greek Ombudsman, b) exit the place of work, following a prior written notification to the employer, for a reasonable period of time without salaries' cut off or any other adverse implication, provided that he reasonably believes that there is an imminent serious risk for his life, health or security, especially if it is the employer that is the offender or the employer does not take the above measures.
- The restriction of dismissal or termination of the employment relation by any means as well as of any other adversarial treatment of the protected workforce on grounds of violence and harassment incident

provided that a) the above constitute revenge of the employer because of non complacency of the employee or b) as a reaction of the employer to a complaint or report of the employee.

- The imposition of administrative sanctions on the employer infringing violence and harassment prohibition.
- That the person against whom the complaint is brought must prove that he has not infringed the restriction in question.
- The establishment of an autonomous department at the Employment Authorities for the monitoring of violence and harassment at work, which will be competent in case of filing of an application for the resolution of the related employment dispute.

***Incorporation of Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU – Provisions on family protection leaves***

The leaves provided for by the new law apply to all working parents (natural, adoptive, custodial as well as on intended mothers having a baby through a surrogacy arrangement) as well as on carers, employed by virtue of full or part time employment at the private sector, public sector (to the extent they are subject to employment legislation and to workers employed by salaried mandate agreements) as well on workers employed through temporary employment agencies. More precisely:

- The following leaves are introduced by the new law:
  - Paternity paid leave of 14 working days, which does not depend either on any prior employment/term of service or on the employee's marital or family status (in case of adoption or custody of a child up to 8 years old, the paternity leave is granted as of the time the child joins the family).
  - Parental leave of 4 months for each parent aiming at the fulfilment of the minimum raising of child obligations (subsidized by the Unemployment Office for the first two months). The leave in question can be taken either continuously or in stages until the child completes the age of 8, whereas in case of adoption or custody, the leave is granted as of the time the child joins the family. The working parent must have completed 1 year of employment (either continuous or by consecutive fixed term employment agreements) with the same employer, unless there exists a more beneficial arrangement for the employee.
  - Carer's leave of up to 5 working days per calendar year for the provision of personal care or support to a relative or person living with the worker at the same residence and in need of care or support for a serious medical reason certified by a medical opinion. The worker must have completed 6 months of employment (either continuous or by consecutive fixed term employment agreements).

- Absence from work on force majeure grounds, up to twice on an annual basis and up to 1 working day each time on force majeure grounds arising from urgent family matters in case of illness or accident (certified by a medical opinion) which make necessary the immediate presence of the employee.
- Flexible regulations (i.e. remote working, flexible working hours or part time employment for working parents of children up to 12 years of age or caretakers). The working parent must have completed 6 months of employment (either continuous or by consecutive fixed term employment agreements) with the same employer, unless there exists a more beneficial arrangement for the employee. The provision in question does not refer explicitly to the caretaker's required prior term of service, but we are of the opinion that a 6 month prior employment would be required in this case as well.
- Assisted reproduction paid leave of 7 working days to female employees who follow methods of assisted reproduction as provided for by Law 3305/2005.
- Right to reduce the working hours by 1 on a daily basis with a corresponding salary reduction for disable children's parents employed by companies employing at least 50 persons. The disability in question must be certified by a medical opinion of the social security organization with which the persons in question are insured.
- Non paid leave for working parents due to illness of a child or another dependent member up to 6 working days per calendar year.
- Paid leave of 10 working days on an annual basis due to serious disease of children up to 18 years of age (completed).
- Non paid leave in case of children's hospitalization for the period of hospitalization and up to 30 working days per year in case of hospitalization of a child, irrespective of age, because of illness or accident that makes necessary the immediate presence of the employee.
- Paid additional leave for single member families of 6 working days on an annual basis, increased to 8 working days in case of 3 or more children.
- The following leaves are extended by the new law:
  - The subsidized by the Unemployment Office 6 months special leave for the protection of maternity is extended to cover adoptive mothers.
  - The post-natal leave of 9 weeks is extended to cover working mothers that adopt a child as of the time the child joins the family and up to the age of 8 as well as to intended mothers having a baby through surrogacy procedures.
  - The child care leave is extended to cover intended mothers having a baby through

surrogacy procedures.

- The leave for the monitoring of school performance is extended until the child completes the 18th year of age as well as irrespective of the child's age in case of children with special or other similar programs.
- The protection of the pregnant employees or employees having recently given birth to a child from dismissal is now extended to cover the working father as well, whose employment agreement or relation cannot be terminated during a period of 6 months following the child's birth, unless there is serious cause for the dismissal.
- Any adverse or less beneficial treatment of employees having exercised the above rights is prohibited whereas the termination of employment agreements of these employees on the above grounds is legally invalid. In case of dismissal of the employee on the above grounds, the employer is obliged to disclose the dismissal grounds, otherwise it is deemed that the dismissal has been made contrary to the restriction in question. In such a case, the employer bears the burden to prove that the dismissal was effected on other grounds.

#### **Working hours limits**

- Full time employment continues to be 40 hours on a weekly basis and 8 hours on a daily basis in case of five day employment and 6 hours and 40 minutes on a daily basis in case of six day employment, unless more beneficial arrangements for the employee exist.
- The daily working hours threshold for the provision of a break is reduced from 6 to 4 consecutive hours.
- Upon the part time employee's agreement, additional work in case of exceptional needs can be provided during hours which are not consecutive to the agreed working hours of the same day, provided that the daily rest provisions are complied with.
- The limit of legally permitted overtime in all business sectors is increased to 150 hours on an annual basis. Each hour of overtime occupation up to three hours daily and until the completion of 150 hours on an annual basis is compensated by the contractual wages increased by 40%, whereas each hour of illegal overtime (i.e. overtime for whose execution the legal formalities have not been complied with) is compensated by the contractual wages increased by 120%. By virtue of a decision of the Ministry of Employment and Social Affairs, overtime occupation permission in excess of the permitted legal threshold can be given in case of urgent work whose execution cannot be postponed; in such a case, each hour is compensated by the contractual wages increased by 60%.
- A flexible working hours system can be implemented on the basis of a mutual agreement of the parties following the request of the employee, in case there is no trade union or an agreement between the trade union and the employer cannot be reached. The

dismissal of the employee on grounds of failure to file the above request is prohibited. Further, the new law provides for the first time that 4 days working weeks within the context of flexible working hours systems qualify as full time employment.

- Annual vacation must now onwards be taken until the first quarter of the next calendar year.
- The business sectors which can legally operate on Sundays are broadened (i.e. courier companies, data centers, logistics companies etc.).

#### **Termination of employment agreements**

- Any distinction between employees and blue collar workers in relation to the notice period and the termination of dependent employment agreements is annulled and the legislation regulating the termination of employees' employment agreement now applies to blue collar workers as well. For purposes of calculation of the dismissal indemnity, 22 daily wages qualify as the blue collar worker's monthly salary, unless he is already paid on a monthly salary basis.
- In case of termination of an employment agreement upon prior notice, the employer can release the employee from the obligation to provide services (totally or partially) until the expiry of the notice period. In such a case, during the notice period:
  - the employee's salary is paid in full and the employer is not overdue as far as the acceptance of the employee's work is concerned and
  - the employee can be employed by another employer, without any impact on the dismissal and the amount of the dismissal indemnity due.

Employees' protection against invalid dismissals is extended to also include new invalidity grounds (i.e. new father's dismissal during a period of 6 months from the birth of the child, dismissal because of failure of the employee to file an application for the implementation of flexible working hours system etc.). In case the employee contests the legal validity of the termination on the above grounds, the employer must prove that the dismissal was made for reasons other than the ones qualifying as reasons of invalidity of the dismissal on the basis of the new law.

In all cases of invalidity, the employee has the right to request, instead of being rehired, the payment of additional compensation which cannot be lower than 3 months regular remuneration or higher than the double of the dismissal indemnity due in accordance with the legislation in force at the time of dismissal.

#### **Teleworking**

- The concept of teleworking is redefined as provision of dependent employment which can be provided at the employer's premises remotely and with the use of technology.
- It requires an agreement between the employer and the employee, except for certain cases where it can be implemented either on the basis of a decision of the employer (for reasons of public health protection, which are ascertained by a ministerial decision and



during the period these reasons exist) or following the employee's request (in case of justified risk to his health, which will be avoided if he works remotely and as long as this risk exists). The diseases and illnesses or disabilities that can qualify as a risk to the employee's health as well as the procedure for the justification of the risk will be made by virtue of a ministerial decision.

- During teleworking, the employer is burdened with the employee's costs arising from this type of work (i.e. equipment cost unless the use of the employee's equipment has been agreed, telecommunication costs, costs for the maintenance of the equipment and the restoration of damages etc.) and provides technical support for the provision of the employee's services. The agreement must determine the method of reimbursement of the related costs of the employee (i.e. reimbursement by the employer of the monthly costs of use of the employee's equipment and residence), which are explicitly set not to qualify as remuneration but deductible expense of the company, exempted from any tax, duty or social security contributions.
- Within 8 days from the commencement of teleworking, the employer must inform the employer by any means of the terms of employment which are differentiated because of teleworking (including at the minimum the right to disconnect, the analysis of the additional cost to be suffered by the remote employee and the method of its reimbursement by the employer, the obligation to protect professional data and the employee's personal data and the actions and procedures required for the fulfilment of the obligation in question etc.).
- The employer can assess the remote employee's performance in such a way to protect the employee's personal life and to comply with personal data protection, explicitly excluding the use of camera for the above purpose.
- The right of the remote employee to disconnect is introduced, which consists in his right to refrain fully from his work (i.e. not to communicate digitally, not to reply to telephone calls etc.) outside his working hours and during any leaves provided in accordance with the applicable legislation. Any adverse discrimination against the remote employee having exercised the right to disconnect is prohibited.
- Teleworking hours as well as the analogy between teleworking and working at the employer's premises are declared on the platform ERGANI.

## **ERGANI II**

- The platform ERGANI is upgraded and digitally developed into a platform called ERGANI II. Data required for the employment market's supervision (i.e. employment agreement and notification of hiring, annual list of personnel etc.) as well digital data related to the exercise of trade union rights and collective bargaining (for instance, General Registry of Employees' Trade Unions, General Registry of Employer's Unions etc.) are filed with the platform ERGANI II.

- The obligation of employers to operate an electronic system for the counting of their employees' working hours is provided. The counting of working hours is made with the use of a digital employment card which records in real time any change to the employees' working hours. The digital employment card's data are cross checked with the ones reported in the Analytic Periodic Return filed by the employer.
- The right of the employer to file forms in delay with the platform ERGANI as well to correct electronically data of filed forms is introduced.

## **Collective employment law provisions**

- Regulations aiming to safeguard transparency of trade unionism are introduced (i.e. obligatory registration of employees' trade unions with the General Registry of Trade Unions maintained with the platform ERGANI or with any development of the platform in question, right of employees to participate in the general meetings of trade unions by distance, restriction of support of trade unions by employers or political parties etc.).
- Regulations aiming at the society's protection from strikes and to the common benefit of economy are introduced (i.e. obligation to provide guaranteed service (1/3 of the one usually provided), prohibition on the second degree and third degree trade unions to declare again strike that has been found illegal by courts, introduction of trade unionists' civil liability exercising violence or in general carrying out illegal actions during a strike, obligation of the trade unions to notify the employer or its trade union of limited duration work interruptions at least 24 hours before they are effected, obligation of written notification of strike or work interruption served by a court bailiff to the interested employer or employers setting out the day and time of commencement and duration of the strike/work interruption, the requests and their grounds etc.).
- The protection of protected trade unions members from dismissal is equated to the one for the protection of maternity.

## **Establishment of the "Employment Inspection Authority" as an independent authority**

An independent administrative authority with the name "Employment Inspection Authority" is established aiming at the assessment of implementation of employment legislation. The commencement of operation of the Employment Inspection Authority requires the issuance of a related decision of the Minister of Employment and Social Affairs following the issuance of the authority's Organisation Deed, to be issued within 6 months from the entry of the law in force.

As of the commencement of operation of the Employment Inspection Authority, the employment authorities currently existing are annulled and the new authority becomes its universal successor.

## **Ratification of the Convention 187 of the International Labour Organisation concerning the promotional framework for occupational safety and health**

The Convention provides for the obligation of each member to promote the continuous improvement of work

safety and health by means of drafting of a national policy to this direction. Within this context, the law provides for:

- the drafting of a National Program on the health and safety at work as an Annex to the National Strategy for the Health and Safety at work and
- the co-operation of the Ministry of Employment and Social Affairs and the Employment Authorities with the Greek Institute of Health and Safety at Work.

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