

COVID-19 and Labour Law: Greece

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Abstract

Greece has introduced new extraordinary regulations and measures through a fast-track legislative process with the involvement of a group of scientific (medical) experts in order to address the emergency challenges from the spread and impact of COVID-19 on the labour market and social protection. School closures, lockdown and interruption of business operations were put into place having serious effects on employment, health and safety, caregiving duties and vulnerable workers.

Keywords: Covid-19; Labour Law; Parental leave; Remote work; Business reorganization.

In the aftermath of the economic and financial crisis and in the middle of new migration waves and pressure coming from its neighbouring country, Greece was called upon to deal with the current outbreak of COVID-19.

Since the beginning of the spread of COVID-19 in Europe, the Greek government has been following closely the developments. Due to the geographical proximity to Italy which has been hit hard by the current health crisis, Greece was one of the first countries adopting restrictive measures at an early stage of the COVID-19 spread. The intensity of the measures has increased gradually and, since the health crisis is still ongoing, at this point it is not possible to predict with certainty the further steps and outcome of this exceptional situation.

The Greek government made use of an extraordinary procedure of a fast-track legislative process enabling the executive power to legislate in cases of emergency without the prior consultation with the parliament¹. The measures were adopted upon consultation with a team of experts.

As a first response to the COVID-19 spread, on 5 March 2020 some facilities in certain areas of Greece have been closed due to confirmed cases of COVID-19 infections. From that point on, nationwide measures have been continuously re-evaluated. The closure of all schools and educational facilities has been decided nationwide as a preventive measure. For

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¹ This procedure is provided for in Article 44 paragraph 1 of the Greek Constitution. The first three Acts of Legislative Content that have been adopted through this procedure, are now ratified by Law No 4682/2020 – Government Gazette 46/A/3 April 2020.

parents working both in the private and public sector and affected by school closures, a parental leave of special cause has been regulated².

In addition, social distancing measures, especially for vulnerable groups, and bans on flights to and from Italy were foreseen then. However, the rapid spread of COVID-19 brought more restrictive measures: lockdown and interruption of business operations were decided the following days³. Due to the lockdown, the use of remote work has been encouraged⁴. However, the introduction of remote work⁵ for businesses without the necessary equipment and know-how, may raise certain issues regarding, for example, the working time, the quality of work or privacy given the limited regulatory framework regarding telework in Greece.

To begin with, the interruption of business operations in Greece had an impact on the employment contracts of the employees. On 13 March 2020 several business operations have been suspended and closed by act of the State in order to avoid the spread of COVID-19. For these businesses the employers cannot accept the work of the employees for reasons of *force majeure*. The employment contracts of the employees in these businesses are suspended *de facto* and automatically for an initial period of 45 days which may be prolonged. The employer is not obliged to pay their salaries. Moreover, the employees will be entitled to a so-called compensation of special cause⁶. This *ad hoc* State financial support amounts to 800 Euros and substitutes the lost income during the suspension of employment contracts. This amount is not taxable, not subject to social security contributions and seizure. Thus, it is protected as a safety net for the needs of those compulsorily affected by the restrictive measures. In addition, during the period of suspension of contracts, the social security relationship is also suspended, and no social security contributions are due. Nevertheless, the entitlements to benefits are not affected. During the period of suspension of contracts and for a period equally long after the end of the suspension, the employees cannot be dismissed. If they are dismissed, their dismissal is null and void *ex lege*⁷. However, the nullity must be claimed before the competent court within a period of three months⁸.

Some issues that have not been addressed so far regard the fixed term contracts that expire during the period of suspension of contracts and the applicable provisions in case of multiple employment relationships, i.e. part-time employment contracts with more than one employer.

Moreover, the restrictive measures (lockdown and increased risks for health and safety) had an impact on the operations of businesses which were not closed by the State, but they

² Article 4 (for private sector) and 5 (for public sector) of the Act of Legislative Content of 11 March 2020 (A' 55).

³ Due to the length requirements for the publication of the papers in this special issue, the examination of the measures is not exhaustive and references to special ministerial decisions are not included.

⁴ Remote work is introduced without the agreement of the employee. Article 4 paragraph 2 of the Act of Legislative Content of 11 March 2020 (A' 55).

⁵ The main form of remote work in Greece is telework.

⁶ Article 13 of the Act of Legislative Content of 14 March 2020 (A' 64).

⁷ Article 11 of the Act of Legislative Content of 20 March 2020 (A' 68).

⁸ This period is also extended due to the decision of suspension of the work of courts during the period of emergency. See Article 11 of the Act of Legislative Content of 11 March 2020 (A' 55).

may be affected by these restrictive measures. For this purpose, the State allows for some possibilities for these businesses in order to mitigate the effects suffered. First, the employers have the possibility to suspend the employment contracts of certain employees, part or all of them. The decision of suspension is irrevocable. In addition, this suspension is not automatic, but the employees must be informed within the same day of the decision for the suspension. The period of suspension for each employee must be continuous, meaning that it should not be interrupted. For the duration of the suspension and for an equally long period after the end of the suspension, no employee can be dismissed legally. The same regulations described above (social security relationship, non-payment of the salary, payment of the *ad hoc* State financial support) are applicable in this case as well.

A second possibility given to the affected businesses is the introduction of a safe operation status⁹ where the working time of employees will be reduced, but not below from a minimum threshold per month (at least two weeks each calendar month) during a maximum period of six months. The employer decides unilaterally on the introduction of this type of work¹⁰. During this measure, the employer cannot dismiss any employees.

This second possibility can be combined with another third possibility, the transfer of employees to another business belonging to the same group of companies¹¹. This *ex lege* “borrowing” of employees does not require the previous employee’s consent. The conditions of employment do not change, and no dismissals are permissible during this transfer. This measure can also be combined with the suspension of employment contracts of certain employees. These three possibilities grant flexibility to businesses in view of the difficulties faced by the current health crisis.

Additional measures of social policy, include some measures of social relief, such as a reduction of the rent for primary residence or business lease (by 40%) for the months March and April 2020¹².

Especially vulnerable employees who suffer from certain health problems are entitled to special absence leave¹³.

The payment of disability benefits is extended *ex lege* for three months because the meetings of health committees for disability issues, which usually decide upon the continuation of the payment of benefits, are suspended during the period of emergency¹⁴. Similar provisions are valid for guaranteed minimum income, housing benefits¹⁵ and unemployment benefits¹⁶.

In addition, targeted measures for the economic relief for self-employed persons include the financing of distance training covering an amount of 600 Euros.

⁹ Article 9 of the Act of Legislative Content of 20 March 2020 (A’ 68).

¹⁰ Under normal circumstances a bilateral decision (employee and employer) or a decision after consultation is required.

¹¹ Article 10 of the Act of Legislative Content of 20 March 2020 (A’ 68).

¹² Article 2 of the Act of Legislative Content of 20 March 2020 (A’ 68).

¹³ Article 25 of the Act of Legislative Content of 14 March 2020 (A’ 64).

¹⁴ Article 6 of the Act of Legislative Content of 11 March 2020 (A’ 55).

¹⁵ Article 7 of the Act of Legislative Content of 11 March 2020 (A’ 55).

¹⁶ Article 7 of the Act of Legislative Content of 20 March 2020 (A’ 68).

Finally, three positive developments should be highlighted within the challenges of this difficult situation. The first is the fact that additional medical staff have been hired for supporting the medical facilities and capacities of the public health system¹⁷. The second is the development of e-governance and digitalisation of many processes and applications in several sectors. The third is the promotion of remote work which may be further used in the aftermath of the health crisis and facilitate the work life balance of many employees.

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¹⁷ Article 10 of the Act of Legislative Content of 14 March 2020 (A' 64).