

COVID-19 and Labour Law: Cyprus

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Abstract

The Cypriot government has enforced a strict lockdown with a wide restriction on the freedom of movement of individuals, school closures and the suspension of all non-essential business operations. Extraordinary measures were adopted to deal with the emergency challenges on the economy and the labour market, including the protection of jobs by compensating the costs of wages and the provision of special allowances to self-employed persons and working parents.

Keywords: Covid-19; Labour Law; Child-care; Remote work; Sickness allowance; Health and Safety; Unemployment benefits; Job retention.

1. General Framework

The Cypriot government, upon consultation with an expert epidemiological committee, and based on the Quarantine Law¹ started adopting restrictive measures at the beginning of March 2020. These measures have been enforced through decrees issued by the Minister of Health², have been re-evaluated and have gradually become stricter and more restrictive.

The first measures which were adopted at an early stage of the COVID-19 spread imposed social distancing and included the prohibition of gathering of more than 75 people in closed areas, the cancellation of events, the organization sporting events without spectators³ and the closure of borders to all non-Cypriot citizens and non-resident foreigners⁴. From 15th of March⁵ all non-essential business operations have been suspended⁶.

With the increase on the number of the confirmed coronavirus infection cases nationally, new more restrictive measures were introduced. All unnecessary movement was

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¹ The Quarantine Law Cap.260, as amended in 2003 and 2020.

² 20 Quarantine (Establishing Measures for preventing the spread of coronavirus COVID-19) Decrees were issued by the Minister of Health from 11th March up until 30th April 2020.

³ Quarantine Decree [...] (No.1) of 2020 dated 11th March 2020 (ΚΔΠ 90/2020).

⁴ According to Quarantine Decree [...] (No.3) of 2020 dated 15th March 2020 individuals who are authorized to enter Cyprus must submit a medical certificate from a doctor of the country of origin to prove that they do not have COVID-19 and must be placed under mandatory 14-day quarantine at accommodation facilities provided by the government.

⁵ *Ibid.*

⁶ Only supermarkets, pharmacies, private health services, bakeries, kiosks and gas stations remained open.

banned. except for eight⁷ specific reasons, night-time curfew was enforced⁸, schools and universities were closed and sporting events were cancelled. These draconian measures severely restricted the freedom of movement of persons to one essential daily trip outside their residence, which needed to be approved via a mobile text message and also affected the freedom to conduct business.

The impact of the two-month shutdown on the economy and labour market remains to be seen as the 4th May 2020 marks the first stage on the relaxation of the measures by opening up the economy⁹ and lifting restrictions on free movement¹⁰.

2. Government measures taken for the protection of labour

On 27th March 2020 new legislation (Law 27(I)/2020)¹¹ was adopted authorizing the Minister of Labour Welfare and Social Insurance to take extraordinary measures to deal with the COVID-19 pandemic. Accordingly, the Minister of Labour with decisions¹² published in the Official Gazette of the Republic, has set out the conditions, the amount and the way of providing special sickness allowance¹³, special leave for the care of children¹⁴ and special unemployment allowance¹⁵ and has issued special schemes aiming to protect employees and which specify the beneficiaries, the manner and all the conditions for the provision of the special schemes¹⁶.

a) Special sickness allowance

In order to support employees in the private sector and self-employed persons who are absent from work due to health reasons, a special sickness allowance is paid¹⁷ provided that

⁷ These reasons are: going to work, purchasing supplies, visiting doctor and pharmacy, going to a bank if an online transaction is not possible, providing assistance to vulnerable groups, first degree relatives attending funerals, weddings or baptisms provided that they do not exceed 10 people in total, exercising and walking a dog for up to two people maximum and restricted to the area around their residence.

⁸ According to the provisions of Quarantine [...] Decree (No.12) of 2020 dated 30th March 2020 (ΚΔΠ 135/2020) a prior permit issued by the police via its reply to the SMS application is obligatory to every person under 65 years old while only one exit from one's residence per day was allowed and none between 21.00-6.00. In addition, everyone outside must carry their ID or passport and additional proof regarding their business, whereas violators are fined on the spot.

⁹ The construction industry, retail shops and markets (no shopping malls) will reopen under strict social distancing rules.

¹⁰ Three daily essential trips outside the residence.

¹¹ The Extraordinary Measures taken by the Ministry of Labour, Welfare and Social Insurance Law to deal with the pandemic of COVID-19 virus Law of 2020 (Law 27(I)/2020).

¹² 15 Decisions were issued by the Minister of Labour, Welfare and Social Insurance Health from the 28th March until the 2nd May 2020.

¹³ Art.5 of Law 27(I)/2020.

¹⁴ Art.6 of Law 27(I)/2020.

¹⁵ Art.7 of Law 27(I)/2020.

¹⁶ Art.8 of Law 27(I)/2020.

¹⁷ Decision on the Special Sickness Allowance (No.10) of 2020 dated 2nd May 2020 (ΚΔΠ 185/2020).

the applicants have medical certificates¹⁸ and fall within specific categories¹⁹. For private sector employees and self-employed persons, who qualify for insurance under the Social Security Act, the allowance is at 60% of the value of the insurance units, whereas if they do not qualify different calculations are made. In any case, the maximum amount that can be paid as a special sickness allowance for private sector employees and self-employed persons is € 1,214 for a period of one month.

b) Special leave for childcare

An allowance for a special leave for child care is paid to applicants who are working parents at the *private* sector and who are responsible for the care of children up to 15 years old and/or children with disabilities, regardless of age, whom, due to the nature of their work, cannot work either remotely or at home or with flexible working hours and where there is no in-house help²⁰.

The application should only be submitted by employees who are insured with the Social Insurance Services in January 2020 and have a gross monthly salary of up to €2,500, whereas the period for the special leave for child-care cannot exceed a 4-week period in total, for both parents. If one parent receives this special leave, the other cannot receive it for the same period²¹.

However, three points should be highlighted. Firstly, the consent of the employer is needed to qualify for the special child-care allowance. Secondly, the initial Ministerial decision on the special leave for child-care issued on 28th March had no restrictions in relation to whether the parent is working in the private or public sector. But the revised decision differentiates between employees in the private sector and employees in the public sector. This becomes even more problematic in view of a recent circular of the Ministry of Finance according to which working parents in the public sector who are responsible for children up to 15 years old and cannot work remotely should apply for a leave of absence²². With schools and childcare facilities closed working parents face serious challenges to combine working from home with care responsibilities. In addition, the burden of child-care seems to be disproportionate for women, because women are the majority of the

¹⁸ Issued by the Ministry of Health or their personal doctor

¹⁹ These categories include people who: belong to vulnerable groups as defined by a relevant list of the Ministry of Health; or are subject to compulsory isolation (quarantine) and self-isolation based on instructions from the Ministry of Health; or are infected with COVID 19; or are aged 63-65 years and who do not receive a statutory pension and are included in above categories.

²⁰ Decision on Special Leave for the care of Children (No.9) dated 2nd May (ΚΔΠ 184/2020).

²¹ If one parent is working and the other is not (either because he/she receives an unemployment allowance or a special unemployment allowance or sickness allowance or sickness allowance, either because he/ she is unemployed or for any other similar reasons), the working parent is not entitled to a child care leave at that time, unless the non-working parent has himself/ herself been infected with COVID 19 or is hospitalized or is a person with a disability or he/she is under mandatory quarantine.

²² Ministry of Finance circular No. 1613 dated 30th April 2020 and titled: 'Instructions for the operation of public service and the broader public sector from 4/5/2020, in the context of the gradual lifting of the measures taken to address the coronavirus'.

primary child careers²³. Women also represent the majority of employees in the public sector in Cyprus²⁴. Therefore, the current provisions affect disproportionately female public sector employees, who are in effect excluded from applying for the special leave for child-care.

Finally, as a result of the COVID-19 pandemic the employees and employers have been forced to rapidly adopt to new arrangements, which were not familiar in Cyprus, such as remote working and teleworking. It remains to be seen whether these changes will have a long-term impact on the way the labour market operates in Cyprus.

c) Special unemployment allowance

According to the scheme of special allowance to support the unemployed persons, any person who is registered as a regular unemployed person in the Registry of the Public Employment Service and who has exhausted the right to receive unemployment benefit payment either in February, or in March, or in April 2020, may be included in the scheme for special unemployment allowance. This allowance is equal to € 360 for a period of one month²⁵.

d) Special schemes for job retention

Based on Law 17(I)/2020 the Minister of Labour, Welfare and Social Insurance has published a number of Decrees setting out different special schemes to support job retention.

A scheme providing for special allowance for the self-employed persons has been adopted and applies to self-employed persons who have fully suspended their work in compliance with the restrictive measures adopted by the Government due to the coronavirus pandemic or who have partially suspended their work (reduction of up to 25% of their turnover)²⁶. The amount of this allowance is minimum €300 and maximum €900, for a period of four weeks, whereas provisions are included for the calculation of the amount based on social insurance contributions.

Similar schemes were adopted for businesses which have fully suspended their operations (reduction of more than 80% of their turnover) or partially suspended their

²³ Pilavaki A., *Cyprus: Economic Crisis and the Impact on Gender Equality*, Gender Equality Committee for Employment and Vocational Training, 2015, 45.

²⁴ *Ibid.*

²⁵ Decision on the Scheme of Special Allowance to support the Unemployed dated 2nd May 2020 (No 14) of 2020- (ΚΔΠ 189/2020).

²⁶ Certain professions related to medical profession and supplies (i.e. Pharmacists) and covered under statutory pension are not included in this scheme.

operations in compliance with the restrictive measures of the government²⁷. According to these schemes, a special unemployment allowance is paid to private sector's employees²⁸, provided that the businesses abide to certain terms and conditions, including a ban on the dismissal of any employees²⁹.

e) Vulnerable workers

The support schemes as set out in the decisions of the Minister of Labour, Welfare and Social Insurance are linked to declared work and the corresponding social security contributions. Therefore, and as criticized by social partners, the support of workers with precarious and informal forms of employment remains problematic³⁰.

f) Other measures

The deadline for the payment of contributions to the social insurance fund has been extended and the payment of the increase in the contribution for the General Health System has been suspended for a period of 3 months³¹.

g) Health and safety

After incidences of confirmed coronavirus infected employees in essential businesses, a Ministerial decree³² made mandatory the laboratory testing for COVID-19 of employees in food and beverage retail companies³³, who participate in the supply chain of these companies, as well as of employees in nursing homes. The Ministry of Health provided a number of free laboratory tests for these purposes. However, social partners have reported that certain businesses do not comply with the Ministerial decree³⁴.

²⁷Decision on the Special Scheme for businesses fully suspending their operations (No.12) of 2020 (ΚΔΠ 187/2020) and²⁷ Decision on the Special Scheme for businesses partly suspending their operations (No.13) of 2020 (ΚΔΠ 187/2020). Both decisions are dated 2nd May 2020.

²⁸ The allowance is calculated at 60% of the value of the insurance units in accordance with the Social Insurance Act.

²⁹ Decision on the Special Scheme for businesses fully suspending their operations (No.12) of 2020 (ΚΔΠ 187/2020) and²⁹ Decision on the Special Scheme for businesses partly suspending their operations (No.13) of 2020 (ΚΔΠ 187/2020). Both decisions are dated 2nd May 2020.

³⁰ SEK on the restart of the Cypriot economy, <https://www.sek.org.cy/index.php/blog/item/1183-sek-gia-tin-epanadrastiriopoiisi-tis-kypriakis-oikonomias>, accessed 1/5/2020.

³¹ Decision on extending the deadline for the payment of contributions to the Social Insurance Fund (No. 15) of 2020 dated 2nd May 2020 (ΚΔΠ 190/2020).

³² Quarantine Decree [...] (No.16) of 2020 dated 15th April 2020 (ΚΔΠ 169/2020).

³³ such as bakeries, supermarkets, kiosks, butchers, fish markets, etc.

³⁴ Announcement by PEO dated 22/4/2020 and titled“ Employers refuse to arrange laboratory tests for their employees”, <https://www.peo.org.cy/el/anakoinoseis?start=10>, accessed 30/4/2020.

Moreover, in preparation for the reopening of business on 4th May 2020 and in consultation with the social partners³⁵, the Ministry of Labour, Welfare and Social Insurance has issued Guidelines on preventive and protective measures for employees and businesses, which complement the decrees of the Minister of Health³⁶.

3. Social partners

Social partners have been participating in the decision-making processes leading to the adoption of the measures aiming to support the employees during the COVID-19 pandemic³⁷.

Furthermore, the social partners have highlighted gaps in the measures adopted and the government has revised them accordingly. For example, the initial measures on the special unemployment allowance and the special sickness allowance didn't include minimum amounts. This has been revised in subsequent decrees³⁸.

4. Other issues

It is noteworthy that on the 10th April 2020 and during the lockdown, the Supreme Court of Cyprus³⁹ ruled that cuts imposed on the pay and pensions of public servants in 2013 during the economic crisis were legal. In this decision, the full bench upheld by majority an appeal submitted by the Attorney General against a ruling of the Administrative Court. This decision sent shocking waves to employees of the public sector firstly because the cuts on their salaries will not be reimbursed and secondly, because the government, if necessary, could in principle impose again cuts on their salaries as a response to the devastating impact of the COVID-19 pandemic lockdown on the economy. The decision has been also criticized by academics, who have argued that the Court's decision was based more on economic considerations rather than legal ones⁴⁰.

³⁵ Cyprus- Minister of Health: All the details on the operation of working places dated 30/4/2020, <https://gr.euronews.com/2020/04/30/kypros-covid-19-ypourgeio-ergasias-oles-oi-leptomercies-gia-to-pos-tha-leitourgoun-xwroi>, accessed 1/5/2020.

³⁶ <https://www.coronavirus.mlsi.gov.cy/safety>, accessed 1/5/2020.

³⁷ <https://www.sek.org.cy/index.php/blog/item/1174-ystati-ekklisi-sek-pros-tis-ergodotikes-organoseis-oev-kai-keve>

³⁸ PEO-Information on the changes to the schemes of the Ministry of Labour, <https://www.peo.org.cy/el/anakoinoseis/enimerotiko-simecioma-gia-tis-allages-sta-sxedia-tou-ypourgeiou-ergasias?tmpl=component&print=1&layout=default>, accessed 28/4/2020.

³⁹ Κυπριακή Δημοκρατία ν. Αυγουστή κ.α., Εφέσεις κατά απόφασης Διοικητικού Δικαστηρίου Αρ. 177/18, 75/19, 76/19, 77/19, 79/19, 80/19, 84/19 και 85/19, 10/4/2020

⁴⁰ Professor Achilles Emilianides, Right to property and cuts of pay and pensions of public servants dated 12/4/2020,

<https://dikaiosyni.com/katigories/arhra/dikaioma-stin-idioktisia-kai-perikopes-misthwn-kai-syntaxewn-dimosiwn-ypallilwn/https://dikaiosyni.com/katigories/arhra/dikaioma-stin-idioktisia-kai-perikopes-misthwn-kai-syntaxewn-dimosiwn-ypallilwn/>, accessed 13/4/2020.

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