



Platis - Anastassiadis & Associates

The associate law firm of EY Greece



Law 4808/2021: Significant amendments in the labor legislation

The Law 4808/2021 (Government Gazette A' 101, 19.06.2021), that introduces significant reforms in the labor relations, was published on the 19th June 2021.

The areas of particular interest, as included in this legislative act, are as follows:

► **INDEPENDENT LABOR INSPECTION AUTHORITY**

The Independent Labor Inspection Authority, replacing the Labor Inspectorate, is established, with operational, administrative and financial independence.

► **WORKING TIME**

Extensive measures regarding working time are introduced. Indicatively:

a) The process for the introduction of **the digital work card** begins, for the monitoring and real-time recording of working time and overtime. According to the time schedule announced by the Ministry of

Employment, the implementation of the digital work card will begin within the first half of 2022, by monitoring actual employment in specific sectors of the economy. The new law stipulates that (after the measure enters into force), non-activation of the digital work card shall entail a fine against the employer amounting to € 10,500 per non-activated card.

b) Teleworking employees explicitly acquire the right to disconnect, i.e. the right not to answer to e-mails, SMS, and calls after the end of their working hours.

c) for daily employment exceeding 4 consecutive hours, a break of not less than 15 minutes and not more than 30 minutes shall be granted,

d) the limit of allowed overtime is increased to 150 hours per year in all sectors of the economy and the fee for illegal overtime is increased to the agreed hourly wage increased by 120% (instead of 80% that applied until now),

e) in the event no agreement is reached between the trade union and the employer, or if no trade union exists, a system of working time arrangement may be introduced, at the request of the employee and following an individual written agreement, while to date the respective measure could be introduced exclusively by virtue of a collective labor agreement between the employees' representatives and the employer,

(f) the list of sectors of the economy allowed to operate on Sundays is expanded, with the addition of the postal services, the production and distribution of sanitary material, the supply chain, the "shared services centers" of company groups, in particular as regards the areas of accounting, human resources, payroll, technology support (IT), regulatory compliance, procurement.

► WORK-LIFE BALANCE

The Directive 2019/1158 on work-life balance for parents and carers is incorporated, and new provisions are introduced (immediately following the publication of the law), such as:

- a) 14-day paid paternity leave,
- b) 4 months parental leave for each parent, with a subsidy from OAED for 2 months,
- c) the right to flexible work arrangements (e.g. teleworking) for parents and carers,
- d) 2-day paid leave per year for reasons of force majeure,
- e) extension of the maternity leave of 9 weeks duration after birth in the event of the adoption of a child,
- f) extension of the special maternity protection leave of a 6 months duration, with a subsidy from OAED, in the event of the adoption of a child,
- g) extension of part-time work arrangement (childcare leave) to the mother who had a child through a surrogacy arrangement.

► ELIMINATION OF VIOLENCE AND HARASSMENT IN THE WORKPLACE

The Convention No. 190 of the International Labor Organization "On the Elimination of Violence and Harassment in the World of Work" is ratified.

Until the conclusion of a collective labor agreement or the amendment of an existing company regulation or the adoption of a new one, companies employing more than 20 employees, are obliged, within three months from the publication of the law, to adopt a policy for the prevention and elimination of violence

and harassment at work, that shall declare zero tolerance for these forms of behavior and identify the rights and obligations of the employees and the employer to prevent and deal with such incidents or forms of behavior. Similarly, within the same time frame, companies employing more than 20 employees, must adopt a policy for managing internal complaints of incidents of violence and harassment, that should describe the process of receiving and examining such complaints in a way that ensures the protection of the victim and respect for human dignity.

► TELEWORKING

As regards the teleworking rules, it is established that the employer may unilaterally impose teleworking, only for reasons of protection of public health, in those instances determined by a ministerial decision of the Minister of Health and the each time co-competent Minister and for the period that these reasons are present. On the contrary, the employee may unilaterally opt for teleworking, at his request, in the event of a documented risk to his health that shall be avoided if he provides his work through teleworking instead of at the employer's premises, and for as long as this risk lasts. In case the employer disagrees, the employee can request the resolution of the dispute by the Labor Inspectorate.

► DISMISSAL LAW

Extensive provisions concerning the law of dismissal are introduced, such as:

- a) prohibition of dismissal of a new father for 6 months from the birth of his child,
- b) incorporation of the case law of the Supreme Court regarding the abusive exercise of the employer's right to terminate the employment contract, hence strengthening of the employee's position. Specifically, in the event of a lawsuit, if the employee proves before the court facts that can support the belief that the dismissal was made for a prohibited reason, the employer bears the burden to prove that the dismissal was not made for the reason stated,
- c) from 01.01.2022 the termination indemnity for the blue collar workers shall be equal to that of the white collar employees,
- d) in the case of a dismissal which does not conflict with a prohibitive provision of law, the court, instead of annulling the dismissal and awarding arrears of wages, may, at the request of either the employee or the employer, award an additional compensation to the employee. Said compensation may not be less than the regular salary of 3 months but no more than twice the statutory termination indemnity,

e) if during the termination of the employment contract the written form was not observed, the validity of the termination is restored, if the employer amends the procedural defect within 1 month from the service of the respective lawsuit or from the submission of a request for settlement of the labor dispute.

When the amount of the termination indemnity paid falls short of the amount of the statutory termination indemnity, due to an obvious error or reasonable doubt as to the basis for its calculation, the annulment of the dismissal may not be accepted and the completion of the termination indemnity may be ordered instead.

f) the Committee for the Protection of Trade Union Executives is abolished and, as of today, the legally protected trade union executives can be dismissed (during the time period of their protection) in the event of a severe cause.

► TRADE UNIONS

Extensive provisions regarding the organization, actions and operation of legally established trade unions are introduced, such as:

a) The financial support of trade unions by employers and political parties is prohibited,

b) Strikes that have been deemed illegal by the courts shall not be able to be re-proclaimed against the same employer and with the same start date by the second-level or third-level trade union,

c) The trade union and the members of the board of directors of the trade union who commit illegal acts during strikes or use psychological or physical violence, against other employees not participating in the strike, bear civil liability,

d) from 01.01.2022 the use of an electronic system for the possibility of participation of the members of the trade unions remotely, in both the General Assemblies and elections, shall become mandatory.

► OTHER PROVISIONS

Finally, important provisions are introduced (that in practice shall enter into force following the issuance of a ministerial decision) such as:

a) In the event of labor disputes brought before the Labor Inspector, in the case of financial claims for work provided or termination indemnity or indemnity for leave not taken, the Labor Inspector's report on the dispute regarding the existence of a debt of the employer, constitutes a document by virtue of which the employee may issue a payment order against the employer. The above applies on the condition that the employment derives from the digital work card and the debts arise from the deposits made in the employee's bank account in comparison with the agreed salary as depicted in the ERGANI system or in

comparison with the each time applicable statutory remuneration.

b) The acquisition and loss of the status of the person holding a position of supervision or management or trust in the company (excluded from the application of working time limits) **shall be declared in the ERGANI Online System**. A decision of the Minister of Labor shall determine the criteria granting to an employee this capacity.

c) For the simplification of the procedures, following the commissioning of the Online System ERGANI II, **the codes and registry** between the Labor Inspectorate, e-E.Φ.K.A. and O.A.E.D. and the codes of specialties and professions between ERGANI, A.A.D.E., e-EFKA and O.A.E.D. **shall be consolidated, homogenized and synchronized**.

d) The declaration of overwork in prior is abolished.

e) **The annual leave must be exhausted by the first quarter of the following calendar year** (and not by the 31st of December of each year as was the case to date).

f) The possibility of receiving unpaid leave is now explicitly regulated, thus covering the current regulatory gap. Specifically, the employee may, following an individual written agreement with the employer, receive unpaid leave for a period not exceeding 1 year, that may be extended by a new agreement of the parties. For the duration of the leave, the employment contract is suspended and no social security contributions shall be due.

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We are an independent law office with a core team of 25 lawyers. Our office provides high quality legal services across the full range of commercial and financial transactions.

Especially in our geographical area, we have established an ongoing cooperation with the respective law firms which are associated with EY, in order to offer seamless and consistent regional services to our clients that have cross country operations.

Our experience allows us to better understand our clients' needs and offer them integrated multidisciplinary solutions in the fields of accounting, tax and financial advisory services. Platis - Anastassiadis & Associates law office is solution focused. We work closely with our clients to seek innovative and practical ways of dealing with their issues. Our priority is to help our clients meet their business objectives. Our expertise, commitment and enthusiasm has resulted in the build up of a client base which includes local and international listed, state and private sector companies and financial institutions.

For more information on labor issues, please contact:

Eirinikos Platis

Partner
eirinikos.platis@gr.ey.com

Maria Rigaki

Director
maria.rigaki@gr.ey.com

at the

Platis - Anastassiadis & Associates Law Partnership

Tel.: +30 210 2886 512
Email: legaloffice@gr.ey.com

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