

Publisher

Tom Barnes
tom.barnes@lbresearch.com

Subscriptions

Claire Bagnall
claire.bagnall@lbresearch.com

Senior business development manager

Adam Sargent
adam.sargent@gettingthedealthrough.com

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Labour & Employment 2021

Contributing editors

**Matthew Howse, K Lesli Ligorner, Walter Ahrens,
Michael D Schlemmer and Sabine Smith-Vidal**

Morgan, Lewis & Bockius LLP

Lexology Getting The Deal Through is delighted to publish the sixteenth edition of *Labour & Employment*, which is available in print and online at www.lexology.com/gtdt.

Lexology Getting The Deal Through provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique Lexology Getting The Deal Through format, the same key questions are answered by leading practitioners in each of the jurisdictions featured. Our coverage this year includes new chapters on Austria, Hong Kong, Hungary, Mauritius, Romania, Singapore and Taiwan.

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Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

Lexology Getting The Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to the contributing editors, Matthew Howse, K Lesli Ligorner, Walter Ahrens, Michael D Schlemmer and Sabine Smith-Vidal of Morgan, Lewis & Bockius LLP, for their continued assistance with this volume.



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Rokas Law Firm

LEGISLATION AND AGENCIES

Primary and secondary legislation

1 | What are the main statutes and regulations relating to employment?

There is no labour law code; however, there are numerous legal statutes and regulations (the Constitution of Greece, laws, presidential decrees, ministerial decisions, etc).

Protected employee categories

2 | Is there any law prohibiting discrimination or harassment in employment? If so, what categories are regulated under the law?

These are:

- The Constitution of Greece (article 22, paragraph 1) on the application of the principle of equal remuneration for work of equal value, regardless of gender or other discrimination.
- Law No. 3896/2010 concerning the application of the principle of equal opportunities and treatment of men and women in terms of employment (adapting national legislation to Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation); and
- Law No. 4443/2016 on the transposition of Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, as well as the transposition of Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation and Directive 2014/54/EU on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers.

The categories regulated under the law are gender, racial or ethnic origin, religious or other beliefs, disability, age and sexual orientation, chronic illness, descent, family or social status, and gender identity or characteristics.

Enforcement agencies

3 | What are the primary government agencies or other entities responsible for the enforcement of employment statutes and regulations?

These are the:

- Labour Inspectorate, which reports directly to the Minister of Labour and Social Affairs;
- Social Security Organisation; and

- prefectures, in collaboration with the Ministry of Health and Welfare, in relation to compliance with the health and safety and sanitation legislation in certain sectors.

WORKER REPRESENTATION

Legal basis

4 | Is there any legislation mandating or allowing the establishment of employees' representatives in the workplace?

These are:

- The Constitution of Greece (article 23, paragraph 1) on the adoption of due measures safeguarding the freedom to unionise and the unhindered exercise of related rights.
- Law No. 1264/1982 on the democratisation of the trade union movement and enshrinement of the trade union freedoms of workers;
- Law No. 1767/1988 on works councils and other provisions in the field of labour law, and ratifying International Labour Organization Convention No. 135 (the Workers' Representatives Convention);
- Presidential Decree No. 240/2006, transposing into national law Directive 2002/14/EC on establishing a general framework for informing and consulting employees in the European Community;
- Presidential Decree No. 91/2006 on the participation of employees in European Companies, implementing Council Directive 2001/86/EC on supplementing the Statute for a European company with regard to the involvement of employees; and
- Law No. 4052/2012 (article 49 et seq) on European Works Councils, transposing Directive 2009/38/EC on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees.

Powers of representatives

5 | What are their powers?

The powers and rights of the trade unions are the right to:

- negotiate a collective labour agreement;
- declare a strike;
- consult with the employer on a regular basis (at least once per month) and when it is required by the applicable legislation (eg, for the implementation of collective dismissals);
- post notices on the notice boards in the workplace, etc;
- enter the workplace and distribute information notices or bulletins to the employees (for trade unions of all levels);
- be provided by the employer with an appropriate room or space to hold the general assemblies (for the most representative trade union in workplaces with more than 80 employees);

- be provided by the employer with an office in the workplace (for the most representative trade union in workplaces with more than 100 employees);
- be present during any inspections in the workplace by the labour authorities; and
- collect the contributions from their members in the workplace.

The powers of the works councils are limited. Their powers and rights are to:

- co-decide with the employer on certain matters (eg, the implementation of an internal work regulation or a health and safety regulation, and the training and education of the employees);
- submit suggestions to the employer for the improvement of the working conditions and performance, etc; and
- be informed in a timely manner by the employer about certain issues (eg, the change in the legal status of the company or the company premises; any changes affecting the workforce, such as dismissals, new hires, rotations; and temporary lay-offs; the introduction of new technologies; and the annual budget for health and safety).

In the event of the absence of a trade union in the workplace, the works council has additional powers, including the right to consult with the employer when it is required by the applicable legislation (eg, collective dismissals) and to submit complaints to the Labour Inspectorate.

BACKGROUND INFORMATION ON APPLICANTS

Background checks

- 6 | Are there any restrictions or prohibitions against background checks on applicants? Does it make a difference if an employer conducts its own checks or hires a third party?

From a data protection law point of view, the personal data collected and processed for any background checks must only include the data necessary for the decision on whether to conclude an employment contract or not. Particular attention must be paid in relation to criminal records as according to relevant guidance from the Hellenic Data Protection Authority, these may be collected by potential employers only in relation to employment positions for which a criminal background check is necessary, and not horizontally for all positions and roles. There are cases in sector-specific legislation (eg, distribution of insurance products), where the applicable provisions explicitly state that employers may collect and use such criminal records for specific employment positions. Furthermore, any personal data must be collected directly from the prospective employee and, only in exceptional cases and under certain conditions (eg, the candidate's consent), from third parties, such as previous employers.

In the event that the employer opts to hire a third party to undertake any necessary background checks, the appropriate data processing and confidentiality agreements must be concluded and implemented, which depend on the recruitment procedure being followed, the exact relationship between the employer and the third parties, their roles as data controllers or data processors, etc. Appropriate information must also be provided in the privacy notices to candidates and employees.

Medical examinations

- 7 | Are there any restrictions or prohibitions against requiring a medical examination as a condition of employment?

From a data protection law point of view, medical data is considered to constitute 'special categories of personal data' and are, thus, subject to a stricter protection framework. In this regard, the provisions of article

9 of the EU General Data Protection Regulation (GDPR) and article 27 of Law No. 4624/2019 are applicable. Under article 9, paragraph 2(h) of the GDPR, the processing of health data is permitted if it is to evaluate the employee's ability to work. Greek law also acknowledges, as noted in the explanatory report of Law No. 4624/2019, that the processing of health data for employment purposes may also include the processing of the data to evaluate whether a candidate may be selected by the employer.

However, the data minimisation principle, as provided in article 27, paragraph 1 of Law No. 4624/2019, shall also be taken into account. According to this principle, employers must process employees (including candidates) personal data only to the extent that it is absolutely necessary for the recruitment procedure or for the execution of the employment relationship. In this regard, the employer is entitled to request and process the health data of candidates only if it is absolutely necessary to evaluate their eligibility for the position in question.

The data protection legislation does not provide for explicit arrangements in the case where an employee refuses to carry out medical examinations. However, there are cases where due to the nature of the work or the increased occupational risk, non-submission of medical examinations may not allow the issuance of a certificate of suitability, the latter being a legal prerequisite for undertaking specific jobs or tasks.

Drug and alcohol testing

- 8 | Are there any restrictions or prohibitions against drug and alcohol testing of applicants?

Any drug and alcohol tests on candidate employees must take place while taking into account the principles concerning the processing of personal data by employers outlined in the GDPR and Law No. 4624/2019. In this regard, employers are entitled under the GDPR and Greek law to request these tests and process the relevant data, provided that the processing is absolutely necessary for the purposes of evaluating whether a candidate will be chosen for the position in question.

HIRING OF EMPLOYEES

Preference and discrimination

- 9 | Are there any legal requirements to give preference in hiring to, or not to discriminate against, particular people or groups of people?

The categories regulated under the law are gender, racial or ethnic origin, religious or other beliefs, disability, age and sexual orientation, chronic illness, descent, family or social status, and gender identity or characteristics.

Law No. 2643/1998 on the care for the employment of specific categories of persons and other provisions provides for the compulsory hire of specific categories of employees (people with a disability, people with many children, war victims, etc) such that these hires amount to 8 per cent of the total workforce of employers in the public and private sectors that employ over 50 employees, in accordance with the prescribed procedure. An exception applies for employers with a negative budget the previous two years.

- 10 | Must there be a written employment contract? If yes, what essential terms are required to be evidenced in writing?

In accordance with Presidential Decree No. 156/1994, transposing Council Directive 91/533/EEC, employees must be informed in writing of the essential terms and conditions of employment, namely:

- the identification details of the employer and the employee;
- the place of work and the employer's registered seat address;

- the job position, grade and work object;
- the start date and the duration of the employment contract, if it is agreed for a fixed term;
- the duration of the annual leave to which the employee is entitled, and the time and the manner the annual leave will be granted;
- the severance pay the employee would be entitled to and the notice period applicable for the employer and the employee in the event of termination;
- the salary and the payment date;
- the duration of the daily and weekly working time; and
- a reference to the applicable collective labour agreement that determines the statutory salary and employment terms of the employee.

11 | To what extent are fixed-term employment contracts permissible?

In accordance with Presidential Decree No. 81/2003, transposing Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work, the maximum:

- total duration of successive fixed-term contracts is three years; and
- number of permitted renewals within a three-year period is three successive contracts.

If the above-mentioned limits are exceeded, it is presumed that the fixed-term successive contracts are used as a means of meeting fixed and permanent business needs, resulting in their conversion into contracts for an indefinite duration (permanent contracts). The burden of proof lies with the employer.

Successive contracts are contracts between the same employer or the same group of companies and the same employee, with the same or similar employment terms and conditions, without a lapse of at least 45 days.

Unlimited renewal of fixed-term contracts is permitted if it is justified on objective grounds.

Probationary period

12 | What is the maximum probationary period permitted by law?

Under an employment contract for an indefinite term, the first 12 months of employment are considered to be the probationary period during which the employer may terminate the employment contract without notice and without severance pay.

Classification as contractor or employee

13 | What are the primary factors that distinguish an independent contractor from an employee?

There is no legislative framework to distinguish an independent contractor from an employee.

The real status of an individual as an independent contractor or an employee is determined by the courts on a case-by-case basis. Case law criteria that indicate an independent contractor status include the following:

- an independent contractor is not subject to the management and instructions of the employer with regard to the time, place and method of the provision of services;
- an independent contractor has his or her own professional registered seat and may carry out the services assigned either him or herself or through other individuals; and
- an independent contractor provides services to other clients.

Temporary agency staffing

14 | Is there any legislation governing temporary staffing through recruitment agencies?

In accordance with Law No. 4052/2012 (articles 113–133), transposing into the national legislation Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work, the duration of the placement with the indirect employer and any renewals must not exceed 36 months. If the time limit is exceeded, the contract is converted into a contract for an indefinite duration (permanent) with the indirect employer (user undertaking). This also applies if the temporary placement continues after the end of the initial placement and to its legal renewals (if any) without a break of 23 calendar days.

Temporary agency work is not permitted under certain conditions prescribed in the legislation, such as when the employer has implemented collective dismissals within the previous six months or redundancies for the same job roles or positions within the previous three months.

FOREIGN WORKERS

Visas

15 | Are there any numerical limitations on short-term visas? Are visas available for employees transferring from one corporate entity in one jurisdiction to a related entity in another jurisdiction?

With regard to short-term visas, only certain categories of employee may enter to provide services, for a temporary period of up to six months or one year, with only a short-term visa and without a residence permit. Examples include:

- third-country nationals who are employees of a business in an EU or EEA country who are moving to Greece for the provision of specific services on the basis of a contract between their employer company and a company in Greece (the visa is granted for the time required for the undertaking of the contractual obligation up to one year in total);
- third-country nationals who are specialist employees of a business in a non-EU or non-EEA country for the provision of services on the basis of a supply contract between their employer company and a company in Greece (the visa is granted for the time required for the undertaking of the contractual obligation up to six months); and
- seasonal work.

For employment, a long-stay visa and residence permit are required. Numerical limitations apply on residence permits for dependent employment for each region and job specialisation, as specified by a ministerial decision.

The Immigration and Social Integration Code provides for different categories of residence permits for the employment of expatriates, including for special purpose employment, investment activity (a numerical limitation on permits per investment applies) and for highly qualified employment (the EU Blue card).

In addition, Directive 2014/66/EU of 15 May 2014 of the European Parliament and of the Council concerning conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer has been transposed into Greek law, and relevant articles have been incorporated in the Immigration and Social Integration Code.

There are no numerical limitations for the categories of special-purpose residence permits, including the residence permit issued to the members of the board of directors, legal representatives and high executives of Greek companies and subsidiaries and branches of foreign companies in Greece, and employees of foreign businesses (industrial,

maritime and commercial), among others. However, other limitations and requirements apply depending on the category of the special purpose residence permit (eg, a minimum number of employees of the employing company in Greece, a minimum amount of work experience, a minimum employment contract duration with the employer in Greece and a decision issued by a competent Ministry).

Spouses

16 | Are spouses of authorised workers entitled to work?

Under certain conditions, a residence permit allowing access to the labour market may be granted to the spouse of a third-country national who resides legally in Greece for two years.

General rules

17 | What are the rules for employing foreign workers and what are the sanctions for employing a foreign worker that does not have a right to work in the jurisdiction?

It is not permitted to hire or employ third-country nationals who hold a residence permit or visa that does not provide access to the labour market or a certificate for the submission of an application for the issue of a residence permit that does not provide access to the labour market. Employers are subject to a fine of €1,500 for each person who is a legal resident but is illegally employed. Other penalties may apply.

Resident labour market test

18 | Is a labour market test required as a precursor to a short or long-term visa?

Yes. Limitations and requirements apply depending on the category of the special purpose residence permit in question (eg, a minimum number of employees of the employing company in Greece, a minimum amount of work experience, a minimum employment contract duration with the employer in Greece and a decision issued by a competent Ministry).

TERMS OF EMPLOYMENT

Working hours

19 | Are there any restrictions or limitations on working hours and may an employee opt out of such restrictions or limitations?

There are limitations and restrictions on working hours, which specify the maximum permitted daily or weekly working time and the maximum permitted overtime hours per day and year.

The weekly working time is 40 hours, eight hours per day for a five-day working week and six hours and 40 minutes per day for a six-day working week.

Employers may, at their discretion, request work over the above-mentioned working times, and employees are obliged to provide such work as follows:

- for a five-day working week: one additional hour per day, amounting to nine hours (ie, 41 to 45 hours per week); and
- for a six-day working week: one hour and 20 minutes, amounting up to eight hours (ie, 41 to 48 hours weekly).

Such work ('overwork') is paid at the rate of an additional 20 per cent of the regular paid hourly rate.

Overtime is the time exceeding nine hours per day in a five-day working week and eight hours per day on a six-day working week. Overtime is paid as a 40 per cent to 80 per cent increase to the regular

paid hourly rate, depending on the hours and in compliance with labour legislation requirements.

In addition, employees are entitled to payment for work at night, on Sundays and on public holidays, as well as on Saturdays (as the sixth day for businesses operating on the five-day working system).

Employees cannot opt out of these restrictions and limitations.

Employees are entitled to breaks from work and rest periods as provided by the legislation.

Exceptions and different treatment may apply for certain business sectors.

Overtime pay

20 | What categories of workers are entitled to overtime pay and how is it calculated?

All employees are entitled to pay for work exceeding regular working time, including overtime pay, with the exception of managerial employees (ie, high-level employees holding a position of supervision, management and trust, who are exempt from the legislation regarding the working time limits, in accordance with article 2(a) of the International Labour Convention on Hours of Work (1919, Washington), which was ratified by Law No. 2269/1920). The status of a managerial employee who may be exempt from the legislation for working time limits has been defined by case law on the basis of certain criteria.

Legal overtime up to 120 hours per year is paid as a 40 per cent increase to the regular paid hourly rate, whereas legal overtime exceeding 120 hours per year is paid as a 60 per cent increase to the regular paid hourly rate. Overtime that does not comply with the requirements of Law No. 4225/2014 is considered exceptional overtime (illegal) and is paid at the rate of an additional 80 per cent of the regular paid hourly rate.

21 | Can employees contractually waive the right to overtime pay?

No, it is not permitted.

Vacation and holidays

22 | Is there any legislation establishing the right to annual vacation and holidays?

For each calendar year, employees on a five-day working week are entitled to 20 to 26 working days, whereas employees on a six-day working week are entitled to 24 to 31 working days, depending on the years of service and the year of employment with the employer:

- after the first year of employment, annual leave increases by one working day for each year of employment, up to 22 working days for a five-day working week and 26 working days for a six-day working week;
- employees who have completed 10 years of employment with the same employer or 12 years of employment with any employer under any dependent employment relationship are entitled to 25 working days, if they work five days a week, and 30 working days, if they work six days a week; and
- employees who have completed 25 years of employment at the same employer or any employer, are entitled to 26 working days and 31 working days, for a five-day and a six-day week, respectively.

Increased annual leave may also be prescribed by specific legislation (eg, employees with a disability who are compulsorily hired) or collective labour agreements.

Sick leave and sick pay

23 | Is there any legislation establishing the right to sick leave or sick pay?

Sick leave for 'short-term sickness' may last up to six months, depending on the years of service with the employer.

Regarding sick pay, employees are entitled to up to one month's salary, depending on the years of service with their employer.

Under article 5, paragraph 3 of Law No. 2112/1920, short-term sickness is considered as an absence that lasts up to:

- one month, for employees with up to four years of service with the employer;
- three months, for employees with four to 10 years of service with the employer; • four months, for employees with 10 to 15 years of service with the employer; and
- six months, for employees with more than 15 years of service.

Within the above-mentioned time limits, the absence is considered as justified (ie, impediment or inability without the employee's fault), and the employee is entitled to his or her salary as follows:

- up to 15 days' pay (half salary), if he or she has been employed with the (current) employer for between 10 days and one year; and
- up to one month's salary, if he or she has completed one year of employment with the (current) employer.

Special legal regulation and treatment applies to the first three days of sickness.

Employees are entitled to sick leave allowance by the Social Security Organisation.

Leave of absence

24 | In what circumstances may an employee take a leave of absence? What is the maximum duration of such leave and does an employee receive pay during the leave?

Various types of leaves of absence, paid and unpaid, are prescribed by law, collective labour agreements and arbitration decisions, internal work regulations, etc.

Paid leaves of absence include annual (holiday) leave, maternity leave, parental leave, wedding leave, leave for the birth of a child, leave to visit the child's school, leave for single-member families, leave for death of a family member, etc.

Unpaid leave of absence is subject to agreement between the employer and the employee.

The maximum duration of such leave depends on its type.

Mandatory employee benefits

25 | What employee benefits are prescribed by law?

Employees in the private sector are entitled to 14 monthly salaries per annum, including Christmas bonus (one month's salary), Easter bonus (half of one month's salary) and annual (holiday) leave allowance (half of one month's salary), which are paid on specified dates by the legislation.

Compensation for work exceeding the regular working time, namely overwork and overtime, work on a Saturday (for a five-day week system) and work on a Sunday and public holidays is also prescribed.

Compensation for work away from the employee's normal place of work (overnight stay) is also prescribed.

Various benefits may apply, if prescribed by applicable collective labour agreements or internal work regulations.

Part-time and fixed-term employees

26 | Are there any special rules relating to part-time or fixed-term employees?

The main rules for part-time employment contracts are as follows:

- a part-time employment contract must be concluded in writing, otherwise it is presumed to be a full-time employment contract;
- the contract must be submitted to the Labour Inspectorate (through an electronic system) within eight days, otherwise it is presumed to be a full-time employment contract;
- employees are entitled to a 12 per cent increase on the hourly rate for each extra hour exceeding the agreed working time;
- employment for over eight hours per day is not permitted;
- the principle of equal treatment applies unless there are objective reasons justifying the different treatment; and
- part-time work should not be provided intermittently with the exception of certain employee categories.

The main rules for fixed-term employment contracts are as follows:

- a fixed-term contract must be concluded in writing, and the specific objective reason justifying the renewal or extension of a fixed-term contract must be referred to in the contract;
- the total duration of successive fixed-term contracts is three years;
- the number of permitted renewals within a three-year period is three successive contracts;
- the contract is terminated on the agreed date, without notice or severance;
- termination before the agreed date is permitted only if it is justified by a serious cause; and
- the principle of equal treatment applies unless there are objective reasons justifying the different treatment.

Public disclosures

27 | Must employers publish information on pay or other details about employees or the general workforce?

No, such information is provided if requested by a public authority.

POST-EMPLOYMENT RESTRICTIVE COVENANTS

Validity and enforceability

28 | To what extent are post-termination covenants not to compete, solicit or deal valid and enforceable?

A post-termination non-competition covenant must be agreed in writing.

According to case law, a post-termination non-competition clause is considered as lawful, when:

- it is required for the protection of the employer's justified interests;
- the restriction is limited in terms of time, geographical area, activity or business sector;
- it takes into consideration the specialisation of the employee and his or her circumstances; and
- a reasonable compensation is agreed and paid to the employee to cover the financial damage for the restricted period.

Post-termination non-solicitation and non-dealing covenants must be agreed in writing. These covenants are treated as post-termination non-competition covenants and, on this basis, are examined and assessed in terms of their validity and enforceability by the courts.

There is no statutory maximum period for post-termination (non-competition etc) covenants, but a court will assess the reasonableness of the period agreed. The validity and the enforceability of these clauses is assessed on the basis of articles 178 (contractual term contrary to

moral standards), 179 (contractual term limiting to a great extent the freedom of the weak contractual party) and 281 (general prohibition of the abuse of rights) of the Civil Code, following an evaluation of all the special conditions of each specific case.

Post-employment payments

29 | Must an employer continue to pay the former employee while they are subject to post-employment restrictive covenants?

Part of the legal theory includes, among the requirements for the legality of the post-termination non-competition clause, the need for reasonable compensation to be agreed and paid to the employee to cover the financial damage for the restricted period. That said, according to the case law, the provision of consideration does not constitute a necessary prerequisite for the validity of the relative clause, but, under certain conditions, the lack thereof can be taken into account in conjunction with the other terms of the agreement, namely, the duration, the spatial extent and the type of the restricted professional activity.

LIABILITY FOR ACTS OF EMPLOYEES

Extent of liability

30 | In which circumstances may an employer be held liable for the acts or conduct of its employees?

An employer is liable for any acts or omissions of its employees during the course of their employment that results in damage or harm to a third party (articles 914 and 922 of the Civil Code).

TAXATION OF EMPLOYEES

Applicable taxes

31 | What employment-related taxes are prescribed by law?

These are:

- salary tax;
- solidarity levy; and
- severance payment tax.

Employment income exemptions from the calculations of employment income apply.

An employer also withholds an employee's social security contributions from his or her gross monthly salary and pays these directly to the Social Security Organisation. Employer social security contributions are also paid.

EMPLOYEE-CREATED IP

Ownership rights

32 | Is there any legislation addressing the parties' rights with respect to employee inventions?

Yes. Article 6 regarding the right to a patent invention by an employee of Law No. 1733/1987 on technology transfer, inventions and technological innovation provides for different rights for each kind of employee invention (free invention, dependent invention and service invention).

Trade secrets and confidential information

33 | Is there any legislation protecting trade secrets and other confidential business information?

Law No. 4605/2019 transposed into national law Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the

protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure.

The confidentiality obligation of an employee is part of the general employee obligation of loyalty to the employer, and the relevant articles of the Civil Code apply (article 652 on the employee obligation to not cause harm to the employer and articles 200 and 288 regarding the good faith principle).

In addition, references to the confidentiality obligation are included in the employment legislation, such as, article 14, paragraph 10(b) of Law No. 1264/1982, which permits the dismissal of a trade union member in the event that he or she disclosed trade secrets, and article 13, paragraphs 4 and 5 of Law No. 1767/1988, which permits the employer not to disclose confidential information to the works council, etc.

Protection may apply under other legislation, such as articles 16 and 18 of Law No. 146/1914 for unfair competition.

DATA PROTECTION

Rules and obligations

34 | Is there any legislation protecting employee privacy or personnel data? If so, what are an employer's obligations under the legislation?

Employee personal data and the processing thereof are primarily subject to the provisions of the EU General Data Protection Regulation (Regulation (EU) 2016/679) (GDPR) and to the provisions of Law No. 4624/2019 implementing certain provisions of the GDPR, particularly article 27 regulating the processing of personal data in the context of employment relationships. Any regulatory guidance from the European Data Protection Board and the Hellenic Data Protection Authority (HDDPA) must also be taken into account, as well as HDDPA case law on issues relating to the processing of employee personal data.

Employers, in their capacity as data controllers when processing their personnel's personal data, are subject to the provisions of the GDPR (as some of them have been implemented by Law 4624/2019) and have all the obligations stemming therefrom, such as the obligation to:

- comply with the data processing principles under article 5 (data minimisation, storage limitation, accuracy and accountability);
- apply the appropriate legal bases under articles 6 (for simple personal data) and 9 (for special categories of personal data);
- adopt and implement appropriate technical and organisational measures to ensure the safety of the personal data;
- proceed with the data privacy impact assessment where necessary; and
- maintain data processing records.

Article 27 of Law No.4624/2019 provides for more specific obligations in relation to the processing of employee personal data, applicable also where employee personal data (including special categories of personal data) is being processed without being stored or intending to be stored in a filing system (paragraph 6). According to paragraph 1, employers may process the personal data of their employees (including current employees, candidates and former employees, regardless of the legal form of the cooperation or employment), provided and to the extent that is absolutely necessary for the decision to conclude an employment contract or, after its conclusion, for its execution. Paragraph 5 of the same article provides that employers must adopt all necessary measures to ensure that the data processing principles under article 5 of the GDPR are upheld.

With respect to the appropriate legal basis, article 27, paragraph 2 of Law No. 4624/2019 provides that the processing of employee personal data may take place on the basis of the employee's consent only in exceptional cases. To determine whether the consent was freely

given, the employee's dependence under the employment contract, as well as the circumstances under which the consent was granted, are taken into account.

Article 27, paragraph 7 of Law No. 4624/2019 provides that the processing of personal data through a CCTV system in work spaces, regardless of whether it is publicly accessible, is permitted only if necessary for the protection of the people and goods, and the employer is obliged to notify the employees in writing (in paper or electronically) of the installation and operation of such system. In any case, the personal data being collected through the CCTV system is not permitted to be used as a criterion for the evaluation of the employees' performance.

In terms of special categories of personal data (health data, religious beliefs, trade union activity, etc), article 27, paragraph 3 of Law No. 4624/2019 provides that these may be processed for the purposes of the employment relationship, where such processing is necessary to exercise rights or comply with legal obligations under labour law, social security and social protection law, and provided there is no reason why the legal interests of the individual in relation to the processing may override these processing needs. According to the explanatory note to the Law, it is permissible for special categories of personal data to be processed by prospective employees for the purpose of evaluating a candidate's eligibility. With respect to special categories of personal data, article 22, paragraph 3(b') of Law No. 4624/2019 is also applicable, according to which – taking into account the state of the art, the cost of implementation, the nature, extent, context and purposes of the processing, as well as the risks to the rights and freedoms of the individuals resulting from the relevant processing activity – the data controller must adopt and implement appropriate safety, technical and organisational measures, such as measures to ensure that it is possible to verify and identify at a subsequent stage who has inserted, amended or deleted personal data; measures to ensure personnel's sensitivity in relation to personal data processing; access restrictions; pseudonymisation; and encryption.

35 | Do employers need to provide privacy notices or similar information notices to employees and candidates?

Yes. The provisions of the GDPR (articles 13 and 14), establishing the obligation of data controllers to provide adequate and appropriate information to the data subjects regarding the processing of their personal data, are applicable to employers and the processing of their personnel's personal data.

36 | What data privacy rights can employees exercise against employers?

The provisions of the GDPR granting rights to data subjects in relation to their personal data and the processing thereof are also applicable to employees (data subjects) in connection with the processing of their personal data by employers (data controllers). In this regard, employees are entitled to exercise their right of access, right of correction and completion, right to deletion (right to be forgotten), right to restriction of processing, right to portability, right of objection to the processing of their personal data, and rights in relation to any automated decision-making procedures, as detailed and under the conditions provided in articles 15 to 22 of the GDPR. Law No. 4624/2019 also provides for certain restrictions to the above-mentioned rights under the conditions detailed in its articles 31 to 35.

BUSINESS TRANSFERS

Employee protections

37 | Is there any legislation to protect employees in the event of a business transfer?

Presidential Decree No. 178/2002 on measures relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses, in conformity with Council Directive 98/50/EC.

TERMINATION OF EMPLOYMENT

Grounds for termination

38 | May an employer dismiss an employee for any reason or must there be 'cause'? How is cause defined under the applicable statute or regulation?

Both parties have the right to terminate an indefinite-term employment contract (permanent contract). As a rule, the employer is not required to provide a reason or a cause for the dismissal, but exceptions apply. However, the employer's freedom to terminate an employment contract and the right to dismiss an employee is limited by the general prohibition of the abuse of rights (article 281 of the Civil Code).

In addition, the legislation provides for certain prohibited grounds for dismissal, and restrictions apply for certain categories of employees or under certain conditions.

Fixed-term employment contracts terminate ipso jure, without any legal formalities (compensation etc), when their fixed duration expires. Nevertheless, in the event of a serious reason that could justify the termination of the employment contract before its expiry date, the employer (and the employee) may terminate the employment contract before said date.

The law does not specify which reasons may be deemed as serious; as such, it is determined by the courts on a case-by-case basis. Any event that, according to good faith and moral conventions, constitutes a breach of the essential terms of the employment contract, and, as a consequence, the employment relationship may not reasonably continue up to its expiry date, may be considered as a serious reason.

Notice

39 | Must notice of termination be given prior to dismissal? May an employer provide pay in lieu of notice?

There are two types of termination for indefinite-term employment contracts (dismissal):

- with prior notice (regular termination), which applies only for white-collar employees; and
- without prior notice (irregular termination).

Under Law No. 3863/2010 (article 74, paragraph 2 B), when a dismissal with notice is implemented, the notice period depends on the employee's years of service with the (former or current) employer, as follows:

- up to 12 months of employment: no notice;
- from one year to two years of employment: one month's notice;
- from two full years to five years of employment: two months' notice;
- from five full years to 10 years of employment: three months' notice; and
- more than 10 full years: four months' notice

40 | In which circumstances may an employer dismiss an employee without notice or payment in lieu of notice?

When the employer uses the option to terminate the employment contract without notice (dismissal without notice).

Severance pay

41 | Is there any legislation establishing the right to severance pay upon termination of employment? How is severance pay calculated?

Yes, Law Nos. 2112/1920 and 3198/1955. Severance payment is a requirement for the validity of dismissal, both for dismissal with notice and dismissal without notice.

In the event of a dismissal with notice, the severance amount is reduced by 50 per cent. The formula for calculation is as follow: last month's regular salary (gross) for full-time employment multiplied by the years of service with the same employer. There is a reduced severance amount (40 per cent to 50 per cent) in the event of a termination for full retirement, and an upper threshold applies for high earners.

Different treatment applies for white-collar and blue-collar (manual) employees. Different treatment also applies for employees who completed 17 years of service on 12 November 2012, as follows.

White-collar employees with less than 17 years of service on 12 November 2012

For employees who on 12 November 2012 had completed less than 17 years' work experience with the same employer, the maximum length of service (with the same employer) that is taken into consideration for the purpose of severance pay calculation is 16 years of service, which corresponds to severance pay of up to a maximum of 12 months' regular salaries (gross), irrespective of the years of service the employee will have completed at the date of termination of his or her employment agreement by the employer.

Years of service with the same employer to date	Dismissal without notice Statutory severance pay
Up to 12 months	-
1 full year – 2 years	2 months' salary
2 full years – 4 years	2 months' salary
4 full years – 5 years	3 months' salary
5 full years – 6 years	3 months' salary
6 full years – 8 years	4 months' salary
8 full years – 10 years	5 months' salary
10 full years	6 months' salary
11 full years	7 months' salary
12 full years	8 months' salary
13 full years	9 months' salary
14 full years	10 months' salary
15 full years	11 months' salary
16 full years	12 months' salary

White-collar employees with more than 17 years of service on 12 November 2012

Employees who on the 12 November 2012 had more than 17 years' work experience with the same employer are entitled to an additional severance amount of one month's gross salary for every year of service (from 17 years) that they had been employed as at the 12 November 2012.

Their length of service freezes on 12 November 2012, and any work experience following that date, and until the actual termination dates, is not taken into consideration for the calculation of the severance.

Years of service with the same employer until 12 November 2012	Dismissal without notice Statutory severance pay (monthly salary capped at €2,000 (gross) except for termination owing to retirement)
17 full years	1 month's salary
18 full years	2 month's salary
19 full years	3 month's salary
20 full years	4 month's salary
21 full years	5 month's salary
22 full years	6 month's salary
23 full years	7 month's salary
24 full years	8 month's salary
25 full years	9 month's salary
26 full years	10 month's salary
27 full years	11 month's salary
28 full years	12 month's salary

Blue-collar employees (dismissal without notice only)

Years of service with the same employer to date	Dismissal without notice Statutory severance pay
2 months – 1 year	5 days' pay
1 full year – 2 years	7 days' pay
2 full years – 5 years	15 days' pay
5 full years – 10 years	30 days' pay
10 full years – 15 years	60 days' pay
15 full years – 20 years	100 days' pay
20 full years – 25 years	120 days' pay
25 full years – 30 years	145 days' pay
More than 30 full years	165 days' pay

Procedure

42 | Are there any procedural requirements for dismissing an employee?

These are as follows:

- Termination must always be in writing. The termination document must be handed over to the employee or delivered by a plaintiff in the event of non-acceptance.
- Payment of the severance, via bank transfer, must be effected before the delivery of the termination document and evidence of the transfer must be provided to the employee, together with the termination document.
- The termination document is created and submitted within the prescribed deadline to the ERGANI information system, through which the competent authorities are notified. Within the period specified by the legislation, the signed termination document by both parties must be submitted to the ERGANI electronic system.
- Special requirements apply for protected employees (pregnant women, etc).

No prior approval by any government agency is required for the dismissal.

Employee protections

43 | In what circumstances are employees protected from dismissal?

Dismissal is prohibited:

- during annual (holiday) leave;
- owing to the employee's legal trade union activity or membership;
- owing to the employee exercising the right to parental leave or family obligations;
- owing to the employee's refusal to change his or her employment contract from full-time to part-time work; and
- owing to the employee's complaint for application of the equal treatment principle.

Certain categories of employees can only be dismissed on serious grounds (serious cause) and under the procedure prescribed by the legislation:

- pregnant employees and those under maternity protection;
- board members of a trade union or works council (as such protected members are defined and specified in the legislation); and
- compulsorily hired employees pursuant to Law No. 2643/1998.

Restrictions on dismissal also apply for other employee categories, such as private school teachers and employees on military service.

Mass terminations and collective dismissals

44 | Are there special rules for mass terminations or collective dismissals?

Law No. 1387/1983 on the control of collective redundancies incorporating into the Greek legal system (most of) the provisions of the Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies.

Collective redundancies' means dismissals effected by an employer who employs more than 20 employees for one or more reasons not related to the individual employees concerned, where the number of redundancies per calendar month exceeds the following limits:

- for companies employing 20 to 150 employees: the redundancies per month exceed six; and
- for companies employing more than 150 employees: the redundancies per month are more than 5 per cent of the total number of workers employed by the company and, in any event, more than 30 employees per month.

The procedure is specified in the legislation.

The information and consultation procedure with the employees' representatives must be observed.

Class and collective actions

45 | Are class or collective actions allowed or may employees only assert labour and employment claims on an individual basis?

Collective claims and class actions are not provided for under Greek law.

A single lawsuit by several employees as plaintiffs, with the same claims arising from the same factual and legal basis, may be brought against their employer (in accordance with article 74 of the Code of Civil Procedure on the permissive joinder of claims).

Recognised trade unions and employer associations, their unions and professional chambers may exercise in favour of their members all rights that derive from a collective agreement or from other provisions that are assimilated to those of a collective agreement, unless their members have expressed their opposition. In any case, the above associations and unions, among others, can intervene in relevant employment trials (article 622 of the Code of Civil Procedure).

Mandatory retirement age

46 | Does the law in your jurisdiction allow employers to impose a mandatory retirement age? If so, at what age and under what limitations?

Employers have the right but not an obligation to terminate the employment contract of employees who have reached the retirement age for full pension. Employees who satisfy the conditions for full retirement are not obliged to stop working.

DISPUTE RESOLUTION

Arbitration

47 | May the parties agree to private arbitration of employment disputes?

The parties cannot agree to private arbitration of employment disputes.

Employee waiver of rights

48 | May an employee agree to waive statutory and contractual rights to potential employment claims?

An employee is not permitted to waive any statutory employment rights prescribed by law, such as the right to salary, the right to annual leave and the right to severance pay.

An employee may waive contractual rights that are more favourable than the statutory employment rights.

Limitation period

49 | What are the limitation periods for bringing employment claims?

The limitation period differs depending on the employment claim. The limitation period for employment claims related to:

- the validity of a dismissal is three months from the dismissal;
- severance pay is six months from the dismissal; and
- any pay-related claim is five years from the dismissal.

UPDATE AND TRENDS

Key developments of the past year

50 | Are there any emerging trends or hot topics in labour and employment regulation in your jurisdiction? Are there current proposals to change the legislation?

Over the course of the past year and as a response to the outbreak of the covid-19 pandemic, remote working (telework) has emerged as a new trend, necessitating the introduction of a new legal framework for its regulation. In view of the increase of remote working, the Hellenic Data Protection Authority (HDPa) has issued guidelines outlining the data protection issues arising therefrom, and on the measures employers need to take in connection with the means and methods being used for teleworking purposes.

Coronavirus

51 | What emergency legislation, relief programmes and other initiatives specific to your practice area has your state implemented to address the pandemic? Have any existing government programmes, laws or regulations been amended to address these concerns? What best practices are advisable for clients?

In view of the spread of the covid-19 coronavirus, the following emergency and temporary measures have been enacted in the field of labour and employment:

- Suspension of employment contract upon employer's decision; companies – employers in the private sector, that are significantly affected by the negative consequences of the covid-19 coronavirus phenomenon, may suspend the employment contracts of part of their personnel.
- Special purpose compensation; the employees, whose employment contract has been suspended, either due to the prohibition of the company's operation by virtue of a state order, or due to the implementation of the above-mentioned measure of employment contract suspension by the employer, are entitled to extraordinary financial support in the form of a special purpose compensation.
- Prohibition of redundancies; the companies – employers, the business activity of which has been suspended, following an order of public authority, and for as long as the measures against covid-19 are in place, are obliged to not proceed with personnel redundancies by means of termination of employment contracts. In case such terminations take place, they shall be void.
- Financial support, tax reductions and suspension of payment obligations with respect to certain taxes and social security contributions.
- Rents reduction in the cases of professional leases, main residence leases and leasing agreements.
- Provision of a special purpose leave to parents of children under 15 years old or having special needs irrespective of age, due to the suspension of operation of daycare units, kindergartens, schools, special schools, units for the provision of open care services, etc
- A mandatory minimum percentage of remote working employees for each employer is imposed.
- Suspension of the employer's obligation to register information regarding the work shift and the organisation of work in the Information System ERGANI.
- Business operation with security staff.
- Transfer of personnel to undertakings within the same group.
- Guidelines have been issued from the Hellenic Data Protection Authority outlining the personal data processing and protection issues arising from special measures implemented by employers in order to address the covid-19 pandemic (eg, health status questionnaires, temperature measuring at entrances of company premises, etc), and the points to be taken into account in order to ensure compliance of such measures with the applicable data protection legislation.

The implementation of the above-mentioned measures also depends on the degree of covid-19 alarm in force, and the corresponding restrictive measures of the financial activity and movement of people that are in force from time to time.

ROKAS

Christos Theodorou

c.theodorou@rokas.com

Viktoria Chatzara

v.chatzara@rokas.com

Evridiki Evangelopoulou

e.evangelopoulou@rokas.com

25 & 25A Boukourestiou Str
106 71 Athens
Greece
Tel: +30 210 3616816
www.rokas.com

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