

Legal Flash

“Ratification of Mid-term Fiscal Strategy 2013-2016 – Urgent regulations relating to the implementation of L.4046/2012 and the mid-term fiscal strategy 2013-2016”

November 2012

On November 12th 2012, the Greek Parliament adopted Greek Law 4093/2012 (the “Law”) under the title “Ratification of Mid-term Fiscal Strategy 2013-2016 – Urgent Regulations relating to the Implementation of L.4046/2012 and the Mid-term Fiscal Strategy 2013-2016”.

Amongst other provisions, the Law provides for material changes in labour matters, which can be briefly summarised as follows.

Provisions for the Greek Manpower Organisation (OAED)

- As of **1.1.2013** all provisions relating to **special categories** of unemployment benefits and special unemployment income aids are repealed. Any beneficiaries receiving a subsidy on the basis of the repealed provisions, after 31.12.2012, will continue to be subsidised, **after 1.1.2013**, on the basis of **normal unemployment provisions** accordingly receiving the respective **basic unemployment benefit** for a period of **12 months**, in line with the provisions of article 21 of Greek Legislative Decree 2961/1954, as in force, since **no** unemployed beneficiary may continue to receive any benefits, **after 31.12.2012**, on the basis of any of the repealed provisions.
- From 1-1-2013 onwards, any provisions relating to the unemployment subsidization due to the dismissal of employees as a result of a **merger, transfer, or unification** of businesses, are repealed. More specifically, all provisions relating to the extension of subsidization, on the part of OAED, of employees of enterprises, or businesses becoming merged, unified (in whole or in part), or transferred, are effectively repealed, holding reserve on the enterprises transferred in the former area of Capital Administration.
- Any beneficiaries, at 31.12.2012, whose subsidy on the basis of the repealed provisions expires **prior to 31.12.2013**, shall continue, as of 1.1.2013, to be subsidised on the basis of **normal unemployment provisions** receiving, therefore, the basic unemployment benefit (article 21 L.D. 2961/54, as in force) up to the expiry of their subsidy period.
- As of **1.1.2014** a new **long-term unemployment benefit** is introduced, for unemployed being on a constant unemployment status for a period **longer than 12 months**, and who have also used their right to ordinary subsidization and only if their annual income is **less than 10.000€**, increased by 586,08€ for each minor. The height of said **monthly** benefit for long-term unemployed persons cannot exceed the amount of **200€** payable for a period no longer than 12 months. The beneficiary age thresholds are defined between 20 and 66 years of age.

- Annual family income is deemed as the total annual taxed real income, also including any exempted, or specifically taxed income, of the tax-payer, his wife and any minors, derived from any source, with the exemption of **severance packages**.

Single Child Support Benefit

- A new **single child support benefit** is introduced payable after taking into account the number of dependent children, the equivalency scale, the equivalent income and the income scale.

Increase of age retirement thresholds

- As of **1.1.2013** all **age retirement thresholds** of persons insured with Social Security Funds within the jurisdiction of the Ministry for Labour, Social Security and Providence, as well as, of the Bank of Greece, notwithstanding where (said thresholds) are provided for, are **increased by 2 years**.
- From the abovementioned increase, stipulated by the Law, the following categories are **exempted: (a)** insured mothers establishing a retirement right, in accordance with general, special, statutory provisions, as mothers of children incapacitated for any labour activity, also including any widowers being the fathers of children incapacitated for any kind of labour activity; **(b)** persons insured with the abovementioned social security funds, who have already been subjected to a the **regime of work-reserve**, as per L.4024/2011, as in force.
- **Any already established retirement rights up to 31.12.2012**, coming from the fulfilment of all necessary conditions relating to (minimum) time of insurance and age thresholds, notwithstanding the exact source of those conditions, **remain intact** and may be enforced at any time.
- As of **1.1.2014** the Benefit for Social Solidarity for the Retired (EKAS), stipulated by the provisions of article 34 of L.3996/2011, as in force, is paid only after the beneficiary becomes **64 years old**.

Decrease of Pensions and one-off benefits

i. Pensions

- The Law imposes – **as of 1.1.2013** – **cuts** to all already granted **pensions**, as well as, to all pensions granted after the above date, from any insurance fund. The cuts are imposed to **all pensions under no exception** (main and supplementary pension, or dividend, or special increase by ΤΣΜΕΔΕ) and for any cause (age/disability/death).

- The decrease relates to the total of the main payable pension, or main and supplementary, or dividend, to the extent they **exceed €1,000** per month, divided in proportion to the financial capability of the pensioners concerned, as follows:
 - For pension from **€1,000.01 to €1,500.00** – 5% cut
 - For pension from **€1,500.01 to €2,000.00**– 10% cut
 - For pension from **€2,000.01 to €3,000.00**– 15% cut
 - For pension **over €3,000.00**– 20% cut
- The new Law ensures that in all of the above cases, the amount of the lowest minimum pension, **after the cuts**, as per case, **cannot** fall below €1,000.01, €1,425.01, €1,800.01, €2,550.01 for each respective category.
- In the event of multiple pensions, the amount of decrease is divided proportionally in each pension, by taking into account the amount of each pension as it had been formulated prior to the decrease.

ii. **IDIKA S.A.**

- As of **1.7.2013** the Electronic Governance for Social Security S.A. “IDIKA S.A.” is appointed as the competent single entity for the supervision and payment of pensions of insured from all Social Security Funds and of the State. It should be clarified that from **1.1.2013 up to 30.6.2013** the payment of pensions should be conducted by the Social Security Funds, as normal.
- From 1.12.2012 IDIKA S.A. should collect, review and cross-check the data of pensions of all beneficiaries coming from all Social Security Funds and should calculate the amount of decrease for all pensioners, as well as, for the pensioners receiving a pension from more than one fund. The proposed provision purports to create a Single System for the Control and Payment of Pensions, for the beneficiaries of all social security funds and of the State.

iii. **Repeal of trade-unionist pensions**

- As of **1.1.2013** the payment of all pensions from **ETEA** (former ETEAM) to the **representatives of trade unions**, and their beneficiary members, who have been retired in said capacity on the basis of statutory provisions of the Fund for the Supplementary Social Security of Representatives and Employees of Labour Professional Unions (TEAEYEEEO), is **repealed**, under the exception of certain cases.

iv. **One-off Benefits**

- To all insured persons up to 31.12.1992 that retired, or will retire from **1.8.2010 onwards**, and have not yet been issued with the relevant decision stipulating the granting of their one-off benefit, the overall amount of said one-off benefit is gradually decreased on a fund per fund basis. Indicatively, it should be mentioned that the decrease of one-off

benefits of the Providence Pension Fund of **IKA** employees of the **IKA-ETAM** fund reaches the amount of **35,11%**.

- By means of a Decision of the Minister for Labour, Social Security and Providence, issued until 31.12.2012 having the assent of the National Actuarial Authority, a **new technical basis for one-off** entitlements of all funds and providence entities will be depicted. As a result, and from **1.1.2014** one-off benefits granted to insured persons of all funds, will be calculated in line with said **new technical basis**.

v. Insured salaried-income

- Through the provisions of the Law, the maximum threshold for insured salaried-income for **old** (subjected to social security up to 31.12.1992) and **new** (subjected to social security after 1.1.1993) insured employees is **respectively harmonised**.

Repeal of Christmas and Easter Bonuses – Annual Leave Benefit

- As of 1.1.2013 the Christmas and Easter bonuses, as well as, the annual leave benefit, contemplated by **any general or special provision** of any law, regulation or statutory provision for the pensioners and beneficiaries of **all** funds and entities of main and supplementary social security, within the jurisdiction of the Ministry for Labour, Social Security and Providence, as well as, of OGA, NAT and of the Bank of Greece are **effectively repealed**.

Repeal of Employers' Contributions

- In accordance with the provisions of the new Law, as of **November 1st, 2012**, the contemplated **contribution of 0,75%** (L.D. 2963/54, as in force), imposed on the salaries and wages of all employees and workers, in favour of the Organisation for Labour Housing (burdening the respective employers) is **repealed**.

Temporary Employment Agencies (T.E.A.)

- In accordance with the provisions of the Law, the object of T.E.A. is **extended** through the subjection of T.E.A. to the following exemplary activities: **(a)** intermediation for finding employment for which a commencement announcement has taken place before the Employment Directorate and the pursue of said activity has not been prohibited; **(b)** the evaluation and/or education of personnel in accordance with the applicable legislation; and **(c)** the provision of advice and professional guidance in line with the applicable legislation.

- The new Law **repeals** the mandatory **minimum share capital**, of €176,083.00, which was formerly stipulated, for the establishment of T.E.A. as per article 123 of L. 4052/2012.
- Article 117 paragraph 4 section a' of L 4052/2012, **stipulated** that so long as the employment of an employee, by an indirect employer, **continues**, even after the expiry of the initial, or any subsequent legal renewals thereof, **without the intervention of a break period of at least 45 calendar days**, said employment was treated as an employment agreement for indefinite term directly between the employee and the indirect employer. Subsequently, the new Law **decreases** the abovementioned period to **23 calendar days**.

Private Agencies for Employment Placement (P.A.E.P.)

- Under the proposed provision the ability of all individuals or legal entities, pursuing the activity of P.A.E.P. – i.e. the conduct of intermediations for the conclusion of employment agreements for the provision of dependent services – to also pursue the ancillary (to the abovementioned object) activities of advice and professional guidance, is explicitly provided.
- Furthermore, the previously applicable **prohibition on the exercise** of other activities by P.A.E. P. in the premises of their operation **is abolished**.
- During the performance of the above activities, the P.A.E.P. should take into account that they should maintain an **autonomous** and **distinct** office space, so that the handling of personal data of the persons seeking employment and those of the employers is performed under conditions that protect said data and respect private life, whilst the requirement for maintaining a minimum space of **75 sq.m.** formerly required for P.A.E.P. **is also abolished**.
- The time of the necessary professional experience for the director of a P.A.E.P. **is reduced** from **4 to 2** years.

New method for the calculation of lawful minimum salary

- **A new method for the calculation of the lawful minimum** salary of employees, and the wage of workers, is introduced as of **1.4.2013**.
- During the first quarter of 2013, the process for formulating a **legislatively stipulated minimum** salary and minimum wage, for **private sector** employees across the country, will be accordingly determined by means of an **Act of the Cabinet of Ministers**.
- Based on the provisions of the Law, national collective employment agreements, determine henceforth only the minimum **non-salary employment conditions**, applicable to the employees across the

country. Base salaries, base wages, any kind of accruals thereon, and in general any other term on salaries, apply to the employees employed only by employers of the contracting employers' organizations.

- The **lawful minimum salary** of employees and the wage of workers are determined as follows:
 - Employees **over 25 years old** – minimum salary **€586.08**
 - Workers **over 25 years old** – minimum wage **€26.18**
 - Employees **under 25 years old** – minimum salary **€510.95**
 - Workers **under 25 years old** – minimum wage **€22.83**
- The minimum salary of **employees over 25 years old** is increased by **10%** for each period of three years of prior service - and up to three three-year periods – and in total by 30% for a prior service of 9 years and above.
- The minimum wage of **workers over 25 years old** is increased by **5%** for each period of three years of prior service - and up to six three-year periods – and in total by 30% for a prior service of 18 years and above.
- The minimum salary of **employees under 25 years old** is increased by **10%** for one period of three years of prior service, as well for a prior service of 3 years and above.
- The minimum wage of **workers under 25 years old** is increased by **5%** for each period of three years of prior service, and up to two three-year periods, and in total by 10% for a prior service of 6 years and above.
- It is clarified that further to **the monthly ordinary accrual** due to prior service, no other accrual is included in the legislatively determined minimum salary and wage.
- It is further provided that, until unemployment falls **below 10%**, the accrual of the legislatively determined minimum salary and wage for prior service completed **after the 14.2.2012 is suspended**.
- The above prior service accruals are paid to employees who have prior service, with any employer, and under any specialty; on the one hand, regarding **workers**, after completion of the **18th year of age**, and, on the other hand, regarding **employees**, after completion of the **19th year of age**, and are applicable to any (prior) service lapsed only up until **14.2.2012**.
- Individual employment agreements and collective employment agreements **of any kind** are not permitted to determine a monthly salary, a wage for full-time employment **lower** than the minimum **legislatively** determined salary and wage. Any reference, in general, of the applicable legislation to the minimum salary or wage of the National General Collective Employment Agreement, is henceforth treated as the lawful **legislatively determined** minimum salary and minimum wage.

Severance indemnity for private-sector employees

- The new Law provides for the **decrease** of the **prior-notice period** contemplated in the event of terminating an employee's employment agreement of indefinite term for the provision of dependent services having duration **over 12 months**, whereby a **maximum notice-period of 4 months** is set.
- Any employer serving a **prior written notice** to the employee is entitled to pay to said dismissed employee **half** of the otherwise applicable severance indemnity (also see below).

Therefore, the prior-notice periods are adjusted as below:

- For employees with **12 completed months and up to 2 years** – notice period of **1 month**
 - For employees with **2 completed years up to 5 years** – notice period of **2 months**
 - For employees with **5 completed years up to 10 years** – notice period of **3 months**
 - For employees with **10 completed years and above** – notice period of **4 months**
- An employer neglecting its obligation for **prior notification as regards the termination** of an employment agreement for indefinite term of a private sector employee, is subject to the obligation to pay to the dismissed employee the (full) severance indemnity, as per below:
 - From **1 completed year up to 4 years** – severance indemnity of **2 monthly salaries**
 - From **4 completed years up to 6 years** – severance indemnity of **3 monthly salaries**
 - From **6 completed years up to 8 years** – severance indemnity of **4 monthly salaries**
 - From **8 completed years up to 10 years** – severance indemnity of **5 monthly salaries**
 - From **10 completed years** – severance indemnity of **6 monthly salaries**
 - From **11 completed years** – severance indemnity of **7 monthly salaries**
 - From **12 completed years** – severance indemnity of **8 monthly salaries**
 - From **13 completed years** – severance indemnity of **9 monthly salaries**
 - From **14 completed years** – severance indemnity of **10 monthly salaries**
 - From **15 completed years** – severance indemnity of **11 monthly salaries**
 - From **16 completed years and above** – severance indemnity of **12 monthly salaries**

- It is clarified that the calculation of the above indemnification is **effected** on the basis of the **regular salary** (of the employee) of the **last month**, under full-time employment, whilst any potential further indemnity, possibly owed, on a contractual or customary basis, has **not** been taken into account in the abovementioned (indemnity) amounts.
- For private-sector employees occupied under employment agreements of indefinite term, **already** occupied and have also reached, with **same employer, a prior service for over 17 years**, are entitled to **severance indemnity** – on top of the abovementioned amounts – irrespectively of the timing of their dismissal, as follows:
 - For **17 completed years** of prior service – **1 month** severance indemnity
 - For **18 completed years** of prior service – **2 months'** severance indemnity
 - For **19 completed years** of prior service – **3 months'** severance indemnity
 - For **20 completed years** of prior service – **4 months'** severance indemnity
 - For **21 completed years** of prior service – **5 months'** severance indemnity
 - For **22 completed years** of prior service – **6 months'** severance indemnity
 - For **23 completed years** of prior service – **7 months'** severance indemnity
 - For **24 completed years** of prior service – **8 months'** severance indemnity
 - For **25 completed years** of prior service – **9 months'** severance indemnity
 - For **26 completed years** of prior service – **10 months'** severance indemnity
 - For **27 completed years** of prior service – **11 months'** severance indemnity
 - For **28 completed years** of prior service and **above** – **12 months'** severance indemnity
- It is highlighted that the **additional severance indemnity** specifically provided for above, is subject to a **cap** of **€2,000 per month**, since its calculation is performed on the basis of regular salary of the last month, under full-time employment, under the **condition however** that said **additional severance package does not exceed the abovementioned amount.**

Labour Inspection Authority (L.I.A.)

- Based on the new Law, the employer is obliged to notify to the competent Labour Inspection Authority every change or amendment to the working hours or to the division of working hours in general, **within 2 working**

days, in contrast to the **old provision** which stipulated the same-day notice of said changes.

- By means of Collective Employment Agreements, certain matters pertaining to the days of weekly employment of employees in shops, for a **total weekly** conventional timetable of **40 hours**, may be arranged, whilst for each period of 24 hours a **minimum rest** of at least **11 consecutive hours** is also stipulated.

Lawyers' Presence and Fees

- The new Law brings considerable changes to the provisions of article 42 of Greek Lawyers' Code, in relation to the mandatory presence of a lawyer throughout the drafting of notarial deeds, since it is **no longer required** to have a lawyer present during the establishment of Greek Limited Liability Companies (E.P.E.) and Societe Anonyme (S.A.).
- Moreover, and even during the, in exchange for consideration, establishment, transfer, amendment, or repeal of any proprietary right over real property (with the exception of the elimination of mortgages and mortgages' prenotations) the presence of a lawyer is **compulsory only** for the **buyer** and only where the **total consideration** of the abovementioned notarial deed(s) **exceeds the amount of €80,000**.
- More specifically, the presence of a lawyer **is not required**, for any of the contracting parties, for the execution of distribution or exchange agreements, or for agreements for no consideration (e.g. donations), whilst from **1.1.2014** onwards the presence of a lawyer, throughout the execution of all abovementioned notarial deeds becomes **optional** for all contracting parties.
- Finally, the **monthly retainer** of a lawyer, offering its services under a (fixed) retainer fee, is henceforth **freely agreed** between the lawyer and the lawyer's principal. It is mentioned, that the fees for **trainee lawyers** cannot be **less** than the respective **minimum** salary applicable, from time to time, to the **employees** of the private sector.

Newspapers and Magazines Agencies

- It is henceforth explicitly stipulated the right of each individual and legal entity to proceed with the **establishment and operation of Magazines and Newspapers Agency**, under the sole condition that the interested party submits a notification pertaining to the commencement of said activity.
- The documents that should be submitted alongside with the above notification for the commencement of business activity are determined by a decision of the competent Minister. The obligation of Newspapers and Magazines Agencies to distribute any press which is not published within

their registered seat, solely through sub-agencies of the respective place of publication, is effectively **repealed**.

Repeal of restrictions to the distribution of tobacco products

- The new Law **repeals** the restrictions regarding the **sale of tobacco products**, an activity that, according to the old regime was exercised, by privilege, only by certain population categories.
- As a result, the **sale of tobacco products by supermarkets** is now explicitly regulated, taking into account the purpose of protecting public health, stipulating that tobacco products may be placed on closed displays after the cashier counters, accessible by the ultimate consumer only through the **intermediation** of an **employee**.

Miscellaneous Provisions

i. Commercial Road transports

- The restriction with regard to the lease of lorries of gross weight up to **3½ tones** by rental companies is **repealed**. Therefore, the lease of a small lorry is currently allowed for **any period of time** (as opposed to the 2 years threshold as per the old regime).
- Vehicle of gross weight **under 3½**, rented by a business or a professional for fulfilling its transportation needs, **may be driven** either by persons referred to as the lessee(s) or driver(s) in the rental agreement, or by persons who, by written evidence, are linked to the company in any way (e.g. employment agreement for dependent services, services agreement, etc.).

ii. Changes in the energy sector

- The conditions for exercising the competencies of the **Administrator of the Natural Gas Transportation System** are **modified**.
- New **special provisions** are introduced as regards DESFA S.A. indicatively relating to its relations with DEPA S.A., its assets, equipment, personnel, etc.
- The **Development Programme for ESFA** should be necessarily approved by RAE, whilst its duly implementation should be also monitored and evaluated/assessed by RAE for the following 10 years.
- In the event of a systemic violation by DESFA S.A. of any of its obligations under L. 4001/2011, **RAE** becomes **entitled to appoint** a third party in the position of the Independent Administrator of the Natural Gas System.

iii. **Standardized Articles of Association – G.E.MI.**

- Pursuant to the provisions of the Law, the option to use **standardized articles of association** is also **extended** vis-à-vis **Private Companies (“P.C.”)**, in addition to the introduction of certain changes as regards the necessary **content** of said standardized articles of association.

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This information is intended only as a general update for interested persons and should not be used as a basis for decision making.

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