



Legal Flash

November 2019

New Investment Law – Labour related reforms

Introductory remarks

With the recently enacted Law 4635/2019 "Investing in Greece and other provisions", Greece's investments framework is being reshaped.

In brief, this Law, which contains a multitude of provisions, introduces, among others, the following:

- amends and improves certain provisions of L.4608/2019 pertaining to attraction of strategic investments
- provides rules regarding the establishment, coordination, management, financing, audit and application of the National Development Program and its sub-actions
- amends certain provisions pertaining to business parks, industrial activities and the performance of economic activity
- provides that, for an aid to be paid, the completion and the launching of productive function of projects covered by investment laws may be certified by statutory auditors or audit firms registered in the Public Register of article 14 of L.4449/2017 having insurance cover with regard to professional liability equal in value to at least one million (1,000,000) euros per incident and five million (5,000,000) euros in total per year
- redesigns the operating framework of the Hellenic Business Registry
- improves L.4002/2011 regarding the regulation of gaming market, in order to specifically cover online gambling and other relevant online forms (e.g. casino and poker)
- regulates a series of labour and insurance matters

In this newsletter we are focusing on a brief overview of labour matters. For any other issues regulated by this Law, special newsletters will be further published.

Labour related reforms

Law 4635/2019 introduces multi-faceted labour reforms, particularly emphasizing on collective labour relations, since:

- particular categories of enterprises may -under specific conditions- be exempted from the application of a sectoral or/and an interprofessional CLA,
- rules for collective agreements' concurrence are amended,
- additional procedural requirements are being implemented in order for a CLA to be declared as mandatory applicable, and
- in cases of collective disputes, the conditions for unilateral recourse to arbitration are differentiated.

In detail:



A. Individual Labour Relations

Delay in payment of accrued salaries

Definition of significant delay

It is clarified that the delay in payment of the employee's accrued salaries for more than two (2) months is considered as unilateral harmful change of the employee's employment conditions, regardless of the cause of delay.

Measures for the protection of part-time employees

Increase of compensation and maximum limit of additional work

The compensation for additional work is increased hereinafter by twelve percent (12%), for every additional hour of work, beyond the employees agreed working hours.

The aforementioned additional work might be provided up to the maximum daily working hours of a full-time employee.

Declaration of freelancers and employees with insurance vouchers to ERGANI

Upgrade of the ERGANI system

Under the new provision, freelancers' agreements of self-employed individuals having up to two counterparties (art. 39, par. 9, L. 4387/2016), and of employees with insurance vouchers (art. 20, L. 3863/2010) must be mandatorily declared hereinafter to ERGANI. The release of a Ministerial Decision, specifying further details, is pending.

B. Collective Labour Relations

Exemptions from the application of collective agreements

Exemptions from the application of collective agreements

Law 4635/2019 introduces the opportunity for interprofessional and sectoral collective labour agreements to enact specific clauses or to exempt from the application of specific clauses, employees of companies of special categories, such as:

- social economy industries,
- non-for profit legal entities,
- companies in serious financial distress (particularly companies in bankruptcy proceedings or conciliation or out-of-court settlement or rehabilitation).

The release of a Ministerial Decision, specifying further details, is pending.

General Registry of Employees' and Employers' Unions

Creation of General Registry at ERGANI

For the first time, the creation and keeping of an electronic General Registry of Employees' (GE.MI.S.O.E.) and Employers' Unions (GE.MI.O.E) is provided, through the obligation of their registration to the Registry kept at ERGANI.

Collective Agreement's Concurrence

Entrepreneurial - sectoral

Exceptionally, in case of concurrence between an entrepreneurial and a sectoral collective labour agreement, the entrepreneurial one prevails over the sectoral, provided that the following conditions are being met:

- the company in question is in serious financial distress and is currently undergoing bankruptcy proceedings or conciliation or out-of-court settlement or rehabilitation, and
- no exceptions have been prescribed within the sectoral collective agreement in relation to its scope of application.



Local sectoral /
interprofessional
national

It is clarified that the local sectoral or interprofessional collective labour agreement prevails over the corresponding national one.

Extension of collective labour agreements

Supporting
documentation
required

Pursuant to the new provision, for the declaration of a collective agreement as mandatorily applicable, the following are required to be submitted:

- a request by any of the parties bound by the agreement to the Minister of Labour, and
- documentation of the extension's impact to the competitiveness and employment, which should be at the same time submitted to the Supreme Employment Council.

Expiry date

It is clarified that the period in force of the extended collective agreement expires three months after the lapse of its term.

Resolution of collective disputes by arbitration

Possibility of unilateral
recourse to arbitration

The possibility of a unilateral recourse to arbitration is reserved only in case of collective disputes that:

- refer to public companies or companies of public utilities, whose operation is vital for the serving of the general public's substantial needs within the meaning of article 19 par. 2, L.1264/1982, as complemented with par. 1 and 2 of ar.3 L. 1915/1990.
- arise after a definitive failure of the negotiations between the parties for the execution of a collective agreement and their resolution is imposed by an existing reason of general social or public interest connected to the Greek economy.

Definition of the
definitive failure of the
negotiations

The negotiations are considered to have definitively failed in case the following conditions are cumulatively met:

- there is a collective agreement whose term has expired according to art. 2, par. 4, of Council of Ministers' Act no. 6/2012 and,
- all means of understanding and trade union activity have been exhausted, while the party unilaterally resorting to arbitration, has previously participated in the mediation proceeding and has accepted the mediator's proposal.

C. Administrative sanctions for tackling undeclared employment

Audit for undeclared employment

Obligation to re-audit
within 12 months

The auditing body which determined violation of undeclared employment, shall conduct at least one re-audit of the violating business/undertaking within twelve (12) months from the violation date, in order to check for any recurrence in violations.

Right to discount and relevant requirements

Discount of the fine in
case of hiring
undeclared
employees

In case of hiring of the employees, whom were found undeclared, within ten (10) working days, under employment agreements of at least twelve (12) months in duration, the fine is reduced to the amount of two thousand (2,000) euros.

Registry of violators for undeclared employment

Formation of a registry
in ERGANI to record
undeclared
employment

A registry for companies and employers in order to record violations regarding undeclared employment will be introduced in ERGANI System. Said registry will be updated by the competent offices of the Labour Inspectorate and the Unified Social Security Fund.



Exclusion of
offending employers
from favourable
regulations

Companies and employers with offensive behavior will be excluded from any favourable tax and social security regulations.

It is important to note that each individual case needs to be examined based on its own merits, and that the above-mentioned general principles might not necessarily capture all possible eventualities. Our expert advisors are in a position to advise you on the implications arising from a Greek perspective in relation to your specific case.

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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. For further details please contact PwC: 268, Kifissias Avenue 15232 Halandri tel. +30 210 6874400

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