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Newsflash

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Law 5053/2023 (Official Government Gazette A 158/26.9.2023) – New employment regulations

The new law introduces innovative regulations which are adjusted to the current needs of the employment market, on the one hand significantly amending the Greek framework of employment relations and on the other hand simplifying the administrative procedures and upgrading the operation of the Ministry of Employment and the authorities it supervises. More precisely:

Employment regulations in harmonization with Directive (EU) 2019/1152 of the European Parliament and Council dated 20 June 2019

- A "probation period" can be provided onwards, during which the employment agreement or relation is on trial.

  More precisely, indefinite duration employment agreements can provide for a probation period of up to 6 months. In case the probation period is successful and the employment relation continues, the initial hiring date is considered as date of commencement of the employment relationship; otherwise, the agreement is terminated and the term of service until termination is considered employment time as far as the employee's rights are concerned. The introduction of the probation period does not however affect the minimum 12 months period giving rise to the employee's entitlement to termination compensation, but it is explicitly included in the above time period.

  In case of fixed term employment agreements, the probation period cannot exceed ¼ of the total duration of employment up to a maximum 6 months threshold, whereas in case of renewal of the agreement for the same position, a new probation period is not permitted.

- Onwards, clauses or agreements restricting hiring of the employee by other employers outside of the working hours agreed with the initial employer are prohibited (unless the restriction in question is justified on objective ground, e.g. protection of business secrecy or hiring by competitors etc.). In case of parallel employment, which is in any case subject to the minimum rest time as provided for by the applicable legislation (11 hours per 24 hours), the social security contributions paid increase the employee's remuneration on which pension entitlements are calculated.

- The so called «on-demand employment agreements» are introduced, by virtue of which the parties agree on a minimum number of paid working hours which cannot be less than ¼ of the total agreed working hours.

  In case of on-demand employment agreements, the employee is obliged to agree to work for the employer only when the work is provided within predefined hours and days, of which the employee has been notified (in writing, by sms or email or by any other appropriate method) in advance and up to 24 hours before the taking up of work (excluding cases objectively justifying less notice period).

  In case the conditions provided for by the applicable legislation are not met, the employee is entitled to refuse the taking up of work and any distinctive treatment by the employer is restricted.

  Finally, the unilateral conversion by the employer of indefinite duration or fixed term employment agreements to on-demand employment agreements qualifies as restricted unilateral modification of employment terms.

- The employee with at least 6 months of service with the same employer, who has completed the probation period, can request the amendment of his employment relation into one with more predictable and secure working conditions, if such relation is possible. The employer must reply to the

employee within a time period which, depending on the employer's legal form and size as the latter is defined by the applicable legislation regulating legal entities, ranges from 1 to 2 months from the filing of the employee's request.

- The new regulations provide that in case the employee's training is a legal obligation of the employer, the training in question is provided to the employee free of cost, counts as employment time and, where possible, takes place outside the contractual working hours.
- The terms of the employment agreement/relation which the employer must notify to the employee are expanded to also cover the new regulations (e.g. duration of probation period, if any, training, regulations on the minimum working predictability etc.). Further, the methods of the employee's notification are modernized given that, in addition to the notification by means of a written document, the new rules also explicitly provide for the employee's updating of the employee by electronic means, on the condition that the employee can access, store and print the terms in question. Finally, the notification period ranges, depending on the terms to be notified, from 1 week to 1 month sat the latest from the commencement of the employee's work. However, the employer's failure to provide to the employee the documents required does not affect the legal validity of the agreement, but enables the employee to file a claim before the employment authorities in accordance with the applicable legislation.

  Similar notification obligations, including additional terms, are introduced in case the employee is seconded to another Member State in accordance with EU legislation (e.g. employee's remuneration in accordance with the legislation of the Host Member State, official national website of the Host Member State from which the assignee can be informed of the terms and conditions of employment applying to assigned personnel etc.).
- The employee is provided with the right to request the intervention of the Employment Relations Supervisor in case of infringement by the employer of the rights introduced in harmonization with the Directive. Finally, the violation on part of the employer of their obligations in harmonization with the Directive, entails the imposition of sanctions following an invitation for the provision of explanations in accordance with the applicable legislation.

Other employment law regulations

- The employer must upload electronically with the Information System "ERGANI II" and before the the essential employment terms and the written employment agreement, if available, as well as any amendments to the essential employment terms.
- The procedure for the announcement of the cases of termination of the employment agreement with the Information System "ERGANI II" is regulated anew.
- Employers already implementing the Employment Digital Card system, are released from the obligation to upload electronically any change or amendment of the working hours or the employment time's organization or overtime occupation before they become effective. However, in case the working hours as reported by virtue of the Employment Digital Card System are found not to be in accordance with the actual working hours, a penalty of EUR 10 500 per employee is imposed.
- The employee's unjustified absence from work for a period exceeding 5 working hours can be considered as termination of the agreement by the employee, provided that 5 additional consecutive working days have passed as of the date the employee was notified of the above, with the notification having been uploaded with the Information System «ERGANI II» and proven by any appropriate written method. In this case, the employer is obliged on the next working day from the expiry of the above time period, to announce with the Information System "ERGANI II" the employee's voluntary exit. It is noted that, contrary to the standard procedure, the related notification is not required to be signed by the employee, whereas non timely compliance with the announcement obligation above qualifies as immediate effect termination of the agreement by the employer.
- Possibility of work on the 6th day of the week is introduced for 24/7 employers or business with rotating shifts and implementing a five days working week system (excluding hotels and restaurants). In this regard, the employees' work on the 6th days cannot exceed 8 hours and the daily wages will be increased by 40%.
- Employees of non 24/7 companies or businesses which implement a five days working week system (from Monday to Saturday for 24 hours on the basis of rotating shifts), excluding hotels and restaurants, can work on the 6th day subject to explicitly provided conditions (exceptional cases (significantly increased work load), notification of the exceptional cases with the employment authorities before commencement of work, registration of the additional work with the Information System "ERGANI II" before commencement of work, compliance with working hours regulations etc.).
- The list of employers whose employees can work on Sunday and during public holidays is expanded to include new businesses (e.g. food production businesses).

- Penal sanctions are provided in case of exercise of violence over or preventing employees not participating in strikes, from entering, providing services and leaving their work, or of employee's participation in the occupation of the working spaces or their entrances. The repeated carrying out of such offences constitutes an aggravating circumstance.
- Finally, laws, regulations, collective labour agreements or arbitration decisions providing for salary's or wages' increases on the basis of the employee's previous term of service (e.g. three years or five years term of service allowance etc.) suspended by virtue of the Ministerial Cabinet Act no 6/28.2.2012 will come into force again as of 1.1.2024.

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