# Labour & Employment

## in 43 jurisdictions worldwide

# 2009

**Contributing editors: Barry A Hartstein and Tram-Anh T Frank**

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# Greece

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### Legislation and agencies

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

Articles 648 to 680 of the Greek Civil Code on 'contract of employment' are the basic provisions that govern the employment relationship between employers and employees. These articles define: the nature of an employment contract; the employer's and employee's main obligations; the time of payment of salary and consequences of delaying that; the consequences of an employee's sickness; health and safety at work; collective employment agreements; the deemed renewal of an employment term; annual leave; and termination for serious reason.

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

Greece has adopted Directive 78/2008/EC, which governs the general framework of equal treatment in employment. The relevant national laws are: Law 3304/2005 for the application of the principle of equal treatment regardless of national, racial, religious or other orientation or beliefs, invalidity, age or sexual orientation; and Law 3488/2006 for the equal treatment between men and women in employment. According to the above legislation, all direct or indirect discrimination or harassment that leads to the abuse of a person are illegal.

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

Yes, Law 2472/1997 (the Data Protection Law). An employer is obliged to announce to the Data Protection Authority (DPA) the possession of a database, the transfer of a third party's database, the interconnection of databases and the existence of a closed-circuit TV system. When data is related to sensitive information, for example, who refer to the religious, philosophical, national, political background or beliefs, the sexual life, previous criminal convictions, health, social welfare and so on, the law requires the prior approval by the DPA. For practical reasons, the law also provides for exceptions from these obligations – for example, where the processing is realised for the purposes of an employment relationship, where this process is necessary for the mutual fulfilment of contractual or legal obligations and the employee has been informed in advance. The employer, at the stage of collection of personal data, is obliged to inform the employee of the exact identification details of the employer or his representative, the purpose of processing of personal data, the recipients of such data. The employee must be informed also that he has a right of access to his personal data file and a right to deny the processing of his personal data.

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

The Labour Inspection Authority (Epitheorisi Ergasias, LIA) and the police are authorised to control the enforcement of the legislation relating to working hours and employment of immigrants. As far as the respect of all other legislation relating to the labour and employment, including overtime employment, health & safety at work the LIA and its special agencies are authorised to control employers, make suggestions, impose administrative fines or refer violations that incur criminal sanctions to the director of public prosecutions. The role of the Social Security Foundation (IKA) is also very important in relation to the respect by the employers of social security and insurance obligations.

### Worker representation

**5** Is there any legislation mandating or allowing the establishment of a works council or workers' committee in the workplace?

According to Law 1767/1988, the employees of any business that employs more than 50 people have the right to be elected and establish work councils for their representation in the enterprise. If there is no trade union organisation within the business, the relevant threshold is 20 instead of 50 employees. The members of work councils enjoy the same protection as the administrators of trade union organisations. Employers, persons acting on their behalf and any third parties, are prohibited from proceeding to actions or omissions with a view to impede the exercise of the employees' rights described above and more specifically: to influence the employees using threats of dismissal or other means to obstruct the exercise of rights provided by this law; to support the candidature of employees with financial or other means; and to intervene by any mean to the exertion of the employees' general assemblies.

### Background information on applicants

**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?

According to the Data Protection Law and the explanatory Directive 115/2001 of the DPA, collecting and processing personal data of a candidate in order to hire them is only allowed for purposes directly connected to the employment and the employer may only refer to data that is absolutely necessary to assess whether a candidate is suitable and skilled for the position. The employer must address the candidates themselves to collect their personal data. Collecting candidates' personal data from third parties is not prohibited, as long as it is necessary for the achievement of the goal. A vital prerequisite is

for the candidates to be informed in advance that information from third parties will be sought, and their explicit consent must have been given. An employer that intends to seek information from third parties has a duty to inform the candidate of the purposes of the collection and processing of the data, the sources from which information will be sought, the type of information, as well as the consequences of a possible refusal of consent. For some posts in particular (eg, for employees managing monetary issues, teachers), the collection and processing of data regarding a person's prosecutions and convictions is compulsory.

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

Personal data regarding the candidate's health must be collected directly and only if it is absolutely necessary for evaluating whether the candidate is suitable and skilled for a specific post or occupation, present or potential (eg, physicals for individuals employed in nurseries, restaurants, hotels, drivers, pilots, etc); in order for the employer to perform his duty regarding the hygiene and safety of the working place; or for the foundation of the employees' rights and the attribution of the relative social benefits.

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

There is no specific directive or regulation regarding drug or alcohol testing. As a general rule, tests, analyses and relevant procedures that are related to past convictions, habits or even the mental health status of the individual may be included in a recruitment process. Because such tests constitute a deep invasion in the candidate's personality and personal life, the general principle of proportionality dictates that they may only be conducted in exceptional cases, only if it is absolutely necessary for the achievement of a special cause directly connected to that particular post and only with the candidate's written consent.

## Hiring of employees

**9** Are there any legal requirements to give preference in hiring to particular people or groups of people?

By virtue of Law 2643/1998 on care for the employment of persons of special categories and other provisions:
- Greek or foreign companies or businesses that operate in Greece and their affiliates, if they employ 50 or more persons, are obliged to hire persons of 'protected categories', as defined in the above Law, up to 8 per cent of their total workforce; and
- certain public institutions are obliged to employ persons of the same categories up to 10 per cent.

From the above obligation are exempted enterprises and institutions that have had losses in their previous operations. The above percentages are split among the following categories of protected persons, subject to the proportions provided in article 2 of the same Law:
- parents that have many children (more than three);
- persons with an invalidity status of more than 50 per cent and persons with special mental needs or disabilities;
- persons who participated in the National Resistance and their children;
- war victims with disabilities; and
- the spouses of persons that have died or have been missing after the military coup and the war in Cyprus in 1964, 1967 and 1974.

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

No. As a rule, the agreement does not have to be in writing. Therefore it is possible to be made explicitly or tacitly, orally or in writing. The exception of this rule is making an employment contract with the state or a public corporation, or making a part-time employment contract. However, the employer is obliged to notify the employee in writing, within two months of the commencement of the working relationship, of the essential terms of the employment contract, which are the following:
- the ID data of the contracting parties;
- the working place;
- the position of the employee as well as the object of his work;
- the date from which the contract is in force and its duration;
- the duration of the absence leave with benefits the employee is entitled to, as well as the manner and time of its issuance;
- the compensation that may be owed in case the contract is terminated;
- all the kinds of remuneration the employee is entitled to, and their frequency;
- the duration of the regular daily and weekly employment of the employee; and
- reference to the collective regulation that applies and defines the minimum terms of wage and employment of the employee.

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

They are allowed. The courts and subsequently the statutes protect the employee from the abuse by the employer of the meaning of 'fixed-term', that is, naming a contract as fixed-term when it is really an indefinite-term employment contract. Specifically, if the duration of successive employment contracts exceeds in total the two years, without being justified by specific reasons or needs provided by law, it is deemed that, those contracts cover constant and permanent needs of the enterprise and consequently are converted into employment contracts or relations of indefinite term. If in the duration of those two years, the number of renewals of the successive contracts or labour relations is more than three, without any legal justification, it is deemed that those contracts cover constant and permanent needs of the employer and consequently are deemed by law to be employment contracts or relations of indefinite term. The onus of proving the opposite lies with the employer. 'Successive' are the fixed-term contracts or labour relations between the same employer and the same employee, with the same or resembling terms of employment and an interval of no more than 20 weekdays.

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

As probationary period in a contract of employment of either definite or indefinite term is usually agreed the first two months of employment, after which the employer may stop the employment relationship without any obligation to compensate the employee. The probationary period may be agreed as longer than two months, but it has to be reasonable.

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

Although not explicitly prohibited, the validity of contractual clauses not to compete must not be taken for granted; these clauses are controlled according to articles 178 (contractual term contrary to moral standards) and 179 (contractual term limiting to a great extent the freedom of the weak contractual party) of the Civil Code, following

an evaluation of all the special conditions of each specific case. One basic element, which supports the validity of such a clause, is the provision of consideration to the employee, for the undertaking of the obligation of non-competition, which, as a rule, will be constituted by the payment of a reasonable restitution, to cover the financial damage that the co-contracting party will endure during the committing period. Practically, a very high salary may justify a post termination covenant not to compete. Reversely, the lack of provision of consideration is a very important element, which would assist the weaker party to challenge the validity of a non-competition clause. There is no statutory maximum period for non-competition covenants, but a court will assess the reasonableness of the period agreed.

**14** What are the primary factors that distinguish an independent contractor from an employee?

An employee is subject to a 'contract of dependent services', by which the contracting parties aim at the provision of services agreed in advance and a salary, regardless of the way it is paid, and the employee is subject to legal and personal dependence to the employer. This dependence is expressed by the latter's right to give to the employee binding commands and directions, regarding the manner, place and time of the execution of services and to monitor and control the employee to ascertain whether he complies with them. An independent contractor is under a 'contract for the provision of liberal services', that is, he provides his services without being subject to anyone's control and monitoring or without being obliged to comply with commands and directions, especially regarding the manner and time of the provision of his services. These are the factual circumstances that a court will look at should a dispute arise regarding the classification of a contract. It is very often that employment contracts are hidden under 'liberal provision of services' agreements. Employers are very keen to stretch the definition of the latter in order to employ workforce without being subject to social security contributions and without having to respect the regulations relating to overtime, annual leave, termination notice, compensation, etc. An independent contractor has different tax obligations, keeps accounting books and is liable for his own social security contributions without the involvement or burden of an employer.

## Foreign workers

**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?

Yes; according to article 14(4) of Law 3386/2005 on the entry, residence and social integration of foreign nationals in the territory of Greece (the Foreign Nationals Law), the numerical limitations apply according to relevant ministerial decisions that are taken every year and that prescribe the number of foreign nationals per prefecture and per specialisation.

According to article 17(1)(a) of the Foreign Nationals Law, residence permits are granted to higher managerial employees and executive employees of foreign business entities that operate in Greece through a subsidiary or a branch.

According to article 17(1)(b) of the same Law, residence permits are also granted to foreign nationals-employees who are employed by foreign business entities (industrial, maritime, commercial) that legally conduct operations in Greece. According to article 17(1)(e), foreign nationals who are scientists may also be granted residence permits with certain limitations.

**16** Are spouses of authorised workers entitled to work?

Citizens of third countries that reside legally in Greece for more than two years may request for their spouse and their underage children to enter and reside in the country for reasons of family reunification. Those members of the family have, respectively, the right to work or to independent financial activity (article 59 of the Foreign Nationals Law).

**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?

Subject to the special provisions applicable to foreigners who are already legally residents in Greece, executive employees, family members, etc, as a general rule, in order to employ a foreign national an employer must officially 'invite' him, file an application to the local authority and guarantee the payment of a sum equal to the basic statutory remuneration of unspecialised workers and the expenses required for the possible expulsion of the foreign national. If, and after the application is approved, for the employment of the foreign national by the applicant-employer, the foreign national is granted a permission of entry for the provision of dependent employment, which is usually granted for one year, and always for a definite term. The applicant must show a contract of employment that proves that he shall receive a yearly remuneration equal to the above-mentioned statutory minimum. The residence permit is renewable. The sanctions for employers who employ a foreign national who is not equipped with the necessary residence permit or at least proof that all relevant documentation has been deposited with an application at the relevant authority is subject to administrative fines of up to €15,000, closure of the business and imprisonment of at least three months.

**18** Is a labour market test required as a pre-cursor to a short or long-term visa?

Not since the Foreign Nationals Law 3386/2005 was passed.

## Terms of employment

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

The legal daily working hours for employees, that is, the time workplan as imposed by the law, is eight hours for enterprises employing their personnel five days per week, and 6.6 hours for businesses employing their personnel six days per week. In general, an agreement between employer and employee is possible, regarding a working schedule with fewer hours than the limit imposed by the law, but without prejudice to the entitlement of the employee for full remuneration. Law 3385/2005 (article 2) provided that the employer and the employee may arrange the working hours in a different manner, if this is dictated by the employer's increased needs for a specific period which may not exceed in total four months per calendar year. Under that latter arrangement, two extra hours may be agreed per day, which are 'credited' to the employee, so that they are deducted from his working hours at a later stage. Alternatively, instead of less hours per day during another period, the employee may take days off. There are many other provisions regarding the payment for nightshift and Sunday work, as well as public holidays, which are, as a rule, of public order, and therefore any waiver on behalf of employees from their relevant rights would be held invalid.

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

As a general rule, employers working overtime are entitled, for every hour of legal overtime and until the completion of 120 hours per annum, remuneration equal to the regular hourly wage increased by 50 per cent, whilst for overtime exceeding the legal overtime employment of 120 hours per annum, are entitled the regular hour-wage increased by 75 per cent. The hours of overtime work, for the realisation of which the above-mentioned conditions are not applied, are considered to be 'extraordinary overtime'. For every hour of extraordinary overtime, the employee is entitled to remuneration equal to the regular hour-wage increased by 100 per cent.

Law 3385/2005 introduced the new notion of 'overwork'. This term was designed to loosen the traditionally strict statutory approach that every hour above the eighth is overtime. So, in a nutshell, 'small' excesses of the eight-hour limit are now called 'overwork'. With regard to work hours, 'overwork' and 'overtime' hours in general, the relative provisions apply to all salaried persons – that is, all persons providing to their employer depended-on employment, regardless of whether they are employees or workers, except managers or directors (that is, senior employees of the enterprise). These are the persons who have administrative tasks and managerial responsibilities, and at the same time their remuneration is much higher than their colleagues. Managers are exempted from the application of several provisions of labour law and are not protected by the restrictions of the legal working hours (Law 2269/20); they may work overtime or on Sundays and during the night without compensation (Presidential Decree No. 8 of 13 April 1932). There is no concrete formula that defines a manager or director and, in cases of dispute, the courts will look into the specific facts of the particular case. A high salary will not per se guarantee that one shall be considered as a manager, because it may well be that high remuneration is justified by the special skills that a worker has. For all other workers, the conventional work schedule of up to 40 hours per week is applied. An employee may be occupied for a further five hours per week at the employer's discretion (overwork). Those overwork hours (from the forty-first to the forty-fifth hour) are remunerated with the regular hour-wage increased by 25 per cent. The employees for whom the six working-day system applies, may be occupied for eight more hours per week at the employer's discretion (overwork from the forty-first to the forty-eighth hour). In this case as well the employees are remunerated with the regular hour-wage increased by 25 per cent. The 'overtime' work, that is, the exceeding of the maximum limit of legal work of the employees and the providing of services to their employers beyond 45 or 48 hours per week – in other words, the exceeding of the 'overwork' hours as well – is allowed only for specific activities, which are considered to be urgent and exceptional or extraordinary. For the realisation of the overtime the following are required: a record of a written announcement by the employer to the Labour Inspection Authority responsible for the region; and the keeping by the employer of a special 'overtime' book.

**21** Is there any legislation establishing the right to annual vacation and holidays?

Before the introduction of Law 3144/2003, an employee was entitled to holiday-leave after having been continuously employed for 10 months. Since the Law came into force on 8 May 2003, the employee is entitled to vacation leave without the 10-month requirement. The days of leave he will be entitled still depend on the months he has worked at the same employer. The table below applies. Vacation is paid with the normal agreed salary. Sundays, public holidays and sick leave are not included in the vacation leave. If, for example an employee takes a vacation leave of 10 days and the fifth is a public holiday, he will come back to work on the 11th day.

If the employer is a business that runs six days per week, the following applies:

| Months of employment | Days of vacation leave | Vacation pay (salary based) | Vacation pay (per diem based) |
|---|---|---|---|
| 10 months | 24 | 96% of salary | 24 x per diem |
| 24 months | 25 | 1 salary | 25 x per diem |
| 26 months | 26 | 1 salary | 26 x per diem |
| Over 26 months | 26 | 1 salary | 26 x per diem |

If an employee has worked for one month, he will be entitled to one-tenth of the 24 days; if for two months, two-24ths, etc. If the employer is a business that operates five days per week the days of vacation leave are 20, 21, 21, 22 accordingly. The other figures remain the same. A vacation leave without pay may also be agreed between the parties. It is not a right or an obligation of either party. It may be agreed that the leave without pay is on top of the statutory holiday, etc. It depends on the individual circumstances. A vacation bonus is also obligatory by statute. This equals with 50 per cent of the monthly salary or (if the employee is paid per diem) 13 times per diem.

**22** Is there any legislation establishing the right to sick leave or sick pay?

According to article 5(3) of Law 2112/1920 and article 8 of Royal Decree 16 of 18 July 1920, salaried employees may be absent from their work for temporary period due to sickness, without their absence being considered as a unilateral rumination of their employment relationship. Their employer is obliged to accept them back at work. By virtue of article 3 of Law 4558/1930, a temporary sickness period is considered a period between one, three, four and six months depending on the length of the employment accrued, which would accordingly be four, four to 10, 10 to 15 and over 15 years.

In the event of sickness of salaried personnel, the employees are not being paid during the whole period of their absence but as follows:

- if the salaried employee has completed a period of service exceeding 10 days but less than a year, he or she has the right to remuneration of a 15-day period (provided the sickness has a duration of 15 days or more); and
- if the salaried employee has completed a year's service, he or she has the right to a month's remuneration (provided the illness has a duration of one month or more).

If the absence is less than 15 days or a month respectively the salaried employee shall be remunerated for the period of time of his or her absence.

In any event, the employer has right to deduct from the above-mentioned remuneration owed to the employee, due to sickness, the amount of money the latter may have received from the Social Security Fund by virtue of the Law regarding obligatory insurance. In order for the employee to have the right to a sickness benefit from the Social Security Fund, he or she must have completed at least 100 days of work under the Fund's insurance during the calendar year, 15 months prior to the notice of sickness without calculating in the second case the days of work realised during the last calendar trimester of the 15-month period. The amount of the daily sickness benefit comes up to 50 per cent of the applicable statutory minimum of the daily salary applicable, on the basis of the average remuneration during the last 30 days of work. This amount constitutes the basic sickness benefit that may be increased according to the family status of the sick employee. Of course the employer has right to ask

the salaried employee to produce supporting documents proving his or her sickness.

**23** 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?

There are many situations where an employee would be entitled to take a leave of absence, under certain conditions. The most significant examples together with the corresponding maximum durations of each are listed here below:

- leave for the education of trade unionists – up to 14 days of paid leave within the same calendar year;
- school and undergraduate university students up to 28 years of age – up to 30 days per year; remuneration under conditions is given by the Organisation for the Employment of Workforce;
- school and undergraduate university students over 28 years of age – under conditions that relate to the ordinary length of their study programme;
- post-graduate students – up to 10 days per calendar year for up to two years without remuneration;
- for voting at national elections – days depend on the distance to cover to reach the town where the vote is registered; leave is paid.
- leave due to sickness of family members – ordinary period is six days whether continuous or spread within a calendar year. The period is extended to eight days if the beneficiary has two children and to 12 days if he has three or more children. If the beneficiaries are spouses, each one is entitled to the leave. Leave is paid;
- leave for the bringing up of children – following the maternity leave and until the child reaches three-and-a-half years of age, each working parent may take an unpaid leave of up to three-and-a-half months;
- leave for visiting a child's school – up to four days per calendar year without pay.
- marriage and child's birth leave – five or six (depending on whether they work five or six days per week) working days for each spouse with remuneration. Upon the birth of a child, the father is entitled to two days of leave with pay;
- maternity leave – 17 weeks or 119 calendar days in total. Eight of those weeks must be allocated before the scheduled or anticipated date of birth. Leave is paid for 15 days if the young mother has not completed one year with the employer, and for one month if she has;
- leave for taking care of a newly born child – for a period of 30 months after the end of the maternity leave, working mothers may start their working day one hour later or finish it one hour earlier. Alternatively, it may be agreed with their employer that during the first 12 months they shall take two hours off accordingly; in that case they shall have one hour off for the following six months. A father would be entitled to the same time off, if the right is not exercised by the mother. It is paid;
- special provision for the protection of motherhood. This benefit is established by Law 3655/2008 and provides for six months leave to mothers insured in the IKA fund. This leave is taken after the end of the maternity leave and the leave for bringing up of children mentioned above; and
- leave without remuneration – this is subject to agreement between the employer and the employee.

**24** What employee benefits are prescribed by law?

The following employee benefits are prescribed by law: holiday bonus (see question 21); unemployment benefit; military service benefit; family benefits; sick benefit; marriage benefit equal to 10 per cent; maternity benefit; special provision for the protection of motherhood (article 142 Law 3655/2008); service benefit (for employees having completed many years of service); and Christmas and Easter benefit.

**25** Are there any special rules relating to part-time or fixed-term employees?

**Employment under rotation (or underemployment)**

This is full time work but only for certain days of the week. This is freely agreed between an employer and an employee subject to the applicable statutory minimum salaries, applied accordingly to the lesser hours of work agreed. An agreement for 'underemployment' must be in writing and be submitted to the local Labour Inspection Authority. Underemployment may also subsequently incur following a significant decrease in the employer's business activities and subject to an agreement with the competent labour union.

**Temporary employment (part-time employment)**

This is employment for all days but for fewer hours than the ordinary statutory prescribed working schedule. It is subject to the same procedural formalities as the employment under rotation. The provisions regarding holidays and holiday bonuses are applied accordingly.

**Fixed-term employment contracts**

They are freely agreed upon, subject to the condition that the meaning of 'fixed term' must not be abusively adopted by an employer who in reality intends to cover his permanent needs (see question 30).

## Liability for acts of employees

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

According to the general provision of article 914 of the Civil Code, anyone who unlawfully damages another person is obliged to compensate him. According to article 922 of the Civil Code, a master would be liable for any damages that his servant caused to a third party by his acts or omissions during service. By the combination of the above-mentioned provisions, it arises that under the same circumstances that an employer is liable for compensation to a damaged party because of its own actions or omissions, it will also be liable for the actions or omissions of its employees.

## Taxation of employees

**27** What employment-related taxes are prescribed by law?

Payment of income tax burdens the employees. But employers are obliged by law to deduct the tax from the employees' wage and to disburse it respectively to the competent Tax Office within the first fortnight of each trimester. The calculation of the tax that employers are obliged to deduct is the following (article 1 of Law 3522 of 12 December 2006): regarding employees that are paid per month, as well as those paid per diem who provide their services under an employment contract for more than a year to the same employer or under an open-ended contract of employment, the monthly net income is defined by deducting from the gross wage only the amounts of the lawful deductions for obligatory insurance contributions, for which the employee is burdened. The definition of 'monthly net income' includes both salary and any other pay packets of the same period (overtime, working on a Bank Holiday, on a Sunday, etc), which are all set in one payroll. Afterwards, every month the monthly net income is readjusted in order to define the overall annual net income of every employee. To calculate the overall annual net income, the

net salary amount is multiplied by 12, to which is added Christmas bonus, Easter bonus and holiday benefits. Any other additional pay packages are also added to the calculation. Afterwards, the amount of tax that has to be deducted is calculated according to the applicable tax scales. In practice, if the employee has no other sources of income, following the submission of his annual tax return, there will no be further tax to be paid.

### Employee-created IP

**28** Is there any legislation addressing the parties' rights with respect to employee inventions?

This used to be governed by article 668 of the Civil Code, which has now been abolished. The applicable rule is now provided in article 25 of Law 1733/1987, according to which, all rights related to an invention of an employee belong to the employee, except: if the invention may be classified as:
- an 'invention of service', in which case the rights belong to the employer; or
- a 'depended invention', in which case the rights are split, with 40 per cent going to the employer and 60 per cent to the employee.

'Invention of service' is the product of the contractual relationship between an employer and an employee that is expressly aimed at the development of inventions. In cases of 'invention of service', an employee may be entitled to additional remuneration if the invention is significantly profitable for the employer. 'Depended invention' is an invention realised by an employee with the use of means, information, materials of the employer. In that case, the employer has priority over the exploitation of the invention in exchange for a compensation given to the employee relative to the economic vale of the invention. After completing his invention, the employee must notify his employer accordingly and the employer has a time limit of four months after the notification to declare his intention to submit a common application together with the employee for the registration of the invention. Failure of the employer to declare his intention within the above-mentioned period gives right to the employee to submit an application by himself and register and exploit the invention in his own name and account. An employee may not contractually waive of any of his or her rights mentioned above.

### Business transfers

**29** Is there any legislation to protect employees in the event of a business transfer?

In the event of a corporation being transferred, the relevant impact on labour relations is regulated by article 4(1) of Presidential Decree 178/2002, through which Greece has adopted Directive 77/187/EEC. In parallel, article 6(1) of Law 2112/1920, article 9(1) of Royal Decree 16 of 18 July 1920 and article 8 of the Presidential Decree of 8 December 1928 (regarding the protection of the rights of the employees of public order, where no waiver of relevant rights is excused) are also in force. By the combination of the above-mentioned provisions, it is provided that:
- the protection of the employee is not limited to the protection of the right of compensation according to Law 2112;
- the new employer assumes all pre-existing employer's obligations;
- the labour relation is preserved in its entirety; and
- the employment position is secured and the employee's demotion is forbidden.

### Update and trends

The hottest topic for the current year is, without a doubt, the economic crisis that has affected employment greatly. It is estimated that approximately 150,000 people have lost their jobs in Greece since October 2008. This figure represents approximately 3 per cent of the Greek labour force. So, the total unemployment rate in Greece now approaches 9.5 per cent. These negative developments show that one of the main victims of the crisis is the employee. Because of the fact that the significant decisions in employment legislation are being taken in Brussels with lower political cost for national governments, unfortunately, as an antidote to the crisis, we expect to see a loosening of the employment relations towards greater 'flexibility' rather than support for employment through the protection of existing jobs and the creation of new ones.

### Termination of employment

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

The employment contracts of indefinite time can be terminated, without restraints and at any time, by the employer, provided that he abides by the legal formalities, that is, notification to the employee of the written termination of the employment contract and payment of the lawful compensation. In the event of the duration of the employment contract being less than two months, the employer may terminate the contract informally and without the obligation to give compensation.

Fixed-term employment contracts terminate ipso jure, without the obligation of compensation or of any other action, when their fixed duration expires. Nevertheless, in the event of a serious reason that could justify the termination of the employment contract before its expiration date, the employer (and the employee) may terminate the employment contract before that date, without recovery. The law does not specify which reasons may be considered as serious; therefore this is left to the judgment of the court. Any event that, objectively, according to good faith and moral conventions, constitutes a breach of the essential terms of the employment contract, and because of which the employment relationship may not reasonably continue up to its expiration date, may be considered as a serious reason. Indicatively, the case law has in the past considered as serious reasons the following:
- breach by the employee of essential terms of the contract;
- continuous and unjustifiable absence of the employee;
- improper and abusive behaviour of the employee towards his employer;
- non-fulfilment of his or her work with assiduity; and
- demonstration of professional insufficiency, etc.

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

This is only applicable to employment contracts of indefinite term. In a nutshell, compensation is calculated according to the years of service at the same employer and if the appropriate notice is given it may be half of what would be if no notice is given. The following table applies:

**Compensation for dismissal**

| | Without advance notice | With advance notice | |
|---|---|---|---|
| Previous employment with same employer | Compensation (times nominal salary) | Advance notice | Compensation (times nominal salary) |
| 2 months – 1 year | 1 month | 1 month | ½ month |
| 1 year – 4 years | 2 months | 2 months | 1 month |
| 4 years – 6 years | 3 months | 3 months | 1½ month |
| 6 years – 8 years | 4 months | 4 months | 2 months |
| 8 years – 10 years | 5 months | 5 months | 2½ months |
| 10 years | 6 months | 6 months | 3 months |
| 11 years | 7 months | 7 months | 3½ months |
| 12 years | 8 months | 8 months | 4 months |
| 13 years | 9 months | 9 months | 4½ months |
| 14 years | 10 months | 10 months | 5 months |
| 15 years | 11 months | 11 months | 5½ months |
| 16 years | 12 months | 12 months | 6 months |
| 17 years | 13 months | 13 months | 6½ months |
| 18 years | 14 months | 14 months | 7 months |
| 19 years | 15 months | 15 months | 7½ months |
| 20 years | 16 months | 16 months | 8 months |
| 21 years | 17 months | 17 months | 8½ months |
| 22 years | 18 months | 18 months | 9 months |
| 23 years | 19 months | 19 months | 9½ months |
| 24 years | 20 months | 20 months | 10 months |
| 25 years | 21 months | 21 months | 10½ months |
| 26 years | 22 months | 22 months | 11 months |
| 27 years | 23 months | 23 months | 11½ months |
| 28 years – over | 24 months | 24 months | 12 months |

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

For breach of the employment contract.

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

See question 31. Upon termination without dismissal, for example, upon the expiration of a fixed-term employment relationship, there is no right to severance pay.

**34** Are there any procedural requirements for dismissing an employee?

A dismissal must be made in writing and any compensation owed to the employee must be paid upon dismissal, otherwise the termination of the employment contract is not valid. A notification of the dismissal must be filled before the competent Organisation for the Employment of Workforce (OAED), or if there is no competent office in the vicinity, at the local police station. No prior approval by any authority is required for the dismissal.

**35** In what circumstances are employees protected from dismissal?

In principle, an employer is entitled to dismiss employees freely. The following categories are generally protected:

- employees who are on leave;
- employees who serve their military service;
- pregnant women, during their pregnancy and for one year after the birth;
- drug addicts, provided that they participate in a programme for their cure; and
- trade unionists without following a special procedure prescribed by law.

All employees are protected against unfair dismissal, inter alia, in the following circumstances:

- when dismissal is attributed to their sex or their family status;
- when dismissal is attributed to the hostile or vengeful behaviour of the employer following any form of harassment to which the employee did not consent; and
- when dismissal is attributed to the fact that the employee has confessed lawfully in a court of law or other authority.

**36** Are there special rules for mass terminations or collective dismissals?

Yes. Mass terminations or collective dismissals are defined as dismissals realised by companies that employ more than 20 employees, the reasons for which are not attributable to the employees and which exceed certain numerical limits. The protective provisions in relation to collective dismissals only apply to employment contracts of indefinite term. An employer who wishes to proceed to collective dismissals must comply with the following procedural steps:

- inform the representatives of the employees about its intention and discuss them in order to investigate possible alternative solutions;
- notify in writing the employee's representatives of the reasons for which the collective dismissals are planned, the number of people employed in total, the number of employees that are to be dismissed, classified by sex, age, specialisation, and any useful information that may help the proposition of alternative solutions; and
- submit the above-mentioned documents to the prefect and LIA official.

The above procedures are followed within time limits prescribed in statute. If there is no agreement between the employer and the employees, the prefect or the minister of labour may not consent to the collective dismissals; in the latter case, the employer shall limit the dismissals to the number of employees limited by the prefect's or the minister's decision. If the relevant prefect's or minister's decision is not issued within the prescribed time limits, the employer may dismiss freely the number of employees that he himself agreed during the negotiations with the employees.

In all other respects, the provisions regarding dismissal of employees employed under a contract of indefinite term apply (written notice, compensation, etc).

## Dispute resolution

**37** May the parties agree to private arbitration of employment disputes?

No. According to article 867 of the Code of Civil Procedure (CCP), private law disputes may be subject to arbitration if the parties who agree the arbitration have the power to freely dispose of the subject matter of the dispute; but the article expressly excludes all disputes governed by article 663 of the CCP, that is, employment law disputes. The latter are subject to special litigation procedures that are provided in articles 664 to 676 of the CCP.

**38** May an employee agree to waive statutory and contractual rights to potential employment claims?

According to article 679 of the Greek Civil Code an employee may not agree to waive the specific statutory rights that are provided in articles 656 to 658, 659(2), 667, 668(2), 670, 674, 677 and 678. The most important of these rights are:

- the right to receive salary in cases where the employer is in delay of payment;
- the right to receive salary when the employee is prevented from offering his services for serious reasons;
- rights to additional payment for additional work;
- the right to annual leave; and
- the right to terminate the contract of employment.

Also, it may not be agreed that an employer can set off an employee's salary against debts of the employee and that an employer has no responsibility for the implementation of health & safety at work regulations.

**39** What are the limitation periods for bringing employment claims?

Five years, by virtue of article 250(17) of the Civil Code.


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