

## Employment & Labour - Greece

New law amends collective negotiations

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Article 37 of the new Law 4024/2011 has significantly amended the law on collective negotiations in Greece, introducing three main changes which were unimaginable only a few months ago. The new law aims to reduce unemployment – or at least amend some provisions which have increased unemployment in the past – and help businesses to become more competitive.

### Principle of favourability

Previously, the main principle governing collective bargaining agreements was the so-called 'principle of favourability' (Article 10 of Law 1876/1990). Several instruments could be applied to an employment relationship:

- the law and the national general collective bargaining agreement applicable to all workers and employees in Greece;
- the collective bargaining agreement of a specific sector or profession;
- the business collective bargaining agreement; and
- the (written, oral or even tacit) individual employment agreement.

According to the principle of favourability, the instrument which was the most favourable to the employee should be applied. Unfortunately, this led to an inability to amend working terms and conditions to the employee's detriment, even with the employee's consent. This further increased the number of redundancies, even when these could have been avoided by, for instance, slightly reducing salaries. However, even in cases where employees and business unions agreed to them, such salary reductions or other amendments of working terms and conditions were prohibited by the collective bargaining agreements of the sector or profession – often for dogmatic or partisan reasons.

According to Article 37 of Law 4024/2011, throughout the application of the Mid-term Frame of Fiscal Strategy (which will remain in force until 2015), one should always apply the business collective bargaining agreement, as opposed to that of the sector or profession, as long as it is at least as favourable to the employee as the national general collective bargaining agreement (eg, setting minimum wages and, in general, minimum working terms and conditions for all employees).

Although this change is expected to help businesses avoid, or at least reduce, redundancies, it has been met with scepticism by union leaders and many politicians and lawyers, who unfortunately still seem unable to grasp the simple fact that employment law is effectively meaningless if there are no jobs.

### Collective bargaining agreements

Previously, only unions could sign collective bargaining agreements (on behalf of employees). However, at least 20 employees are needed to form a union, placing small businesses at an unfair disadvantage. For example, small businesses with no unions were unable to sign business collective bargaining agreements which would have enabled them to employ personnel with wages lower than those provided for by the collective bargaining agreements of the sector or profession (as noted above).

Paragraphs 1 to 4 of Law 4024/2011 address this problem, providing that if a business has no union, then a simple association may sign the collective bargaining agreement instead, as long as it comprises at least three-fifths of the business's personnel.

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This rule is expected to allow small businesses to take advantage of the new law so as to become more competitive. Since around 60% of employees in Greece work for such small businesses, this may well result in less unemployment than anticipated.

### **Mid-term Frame of Fiscal Strategy**

As a general principle of law, an agreement binds only the parties to such an agreement. Initially, this was also the case for collective bargaining agreements. However, Article 11 of Law 1876/1990 empowered the minister of employment to order arbitrarily the extension of the scope of application of a collective bargaining agreement of a sector or profession to all businesses within that sector or profession. This was the case even if such businesses had never agreed to the collective bargaining agreement and were not members of any party to the collective bargaining agreement.

This created a significant number of issues, not only regarding employment law and the law of contracts, but also in relation to competition law. To make matters worse, ministers of employment ended up extending the scope of application of almost every collective bargaining agreement in almost every sector and profession, giving some large market players the opportunity to destroy smaller businesses (eg, by agreeing higher wages that smaller employers could not afford to match); this in turn increased unemployment.

According to Paragraph 6 of Article 37 of Law 4024/2011, this prerogative of the minister of employment has been suspended during the application of the Mid-term Frame of Fiscal Strategy. Small businesses will welcome the move, while employees may hope that their jobs will be more secure, as their wages will not increase without their own and their employers' consent.

It is hoped that Greek employment law will continue to improve in a way that allows it to contain and eventually reduce the number of unemployed, to the benefit of society as a whole.

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