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Greece: Selection of employees for (collective) dismissals

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Greece

Phase:

Management

Type:

Selection of employees for (collective) dismissals

Last modified: 11 April, 2019

Native name:

N. 1387/1983: Έλεγχος Ομαδικών Απολύσεων και άλλες διατάξεις; N. 3863/2010: Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις. Ρυθμίσεις στις Εργασιακές Σχέσεις

English name:

Law 1387/83 on collective dismissals; Law 3863/2010 on the New Social Security System and relevant provisions. Regulations on Labour Relations

Article

3 of Law 1387/1983; 74 paragraph 7 of Law 3863/2010

Description

In the Greek law, the termination of an indefinite-term employment contract is an act not requiring justification and it is the right of both the employer and the employee. The exercise of this right is not uncontrolled and unlimited, and is subject to restrictions on the abuse of rights under article 281 of the Civil Code. If the termination is found to be abusive, then it is considered null and void.

In general, in case of dismissals due to operational reasons, there is a legal obligation of the employer to take into account social criteria. In the case of collective dismissals, this obligation is regulated in more detail.

The termination of an employment agreement on operational grounds is wrongful if the employer fails to take into account and evaluate the criteria of seniority, age, economic and family status during the selection of the employees for dismissal. This duty of care requires the dismissal to target those for whom the measure would be least burdensome. It is expressly provided that persons aged 55-64 years may not exceed 10% of the total number of dismissals. Also, the employer must notify the employees' representatives in writing of the selection criteria for dismissal.

In the case of collective redundancies and redundancies due to financial and logistical reasons, namely in the case of reorganisation of services or parts of the company or reduction of staff for economic reasons due to the company being in financial difficulties, an employer's decision to confront the looming economic crisis through redundancies is not judged in itself by the courts. However, there are controls, firstly on the causal link between this choice and the termination of a particular employee as a last resort for dealing with the company's problems, and secondly, on the way in which the employee is selected. This must be on the basis of objective criteria, namely with good faith and in accordance with honest practices. In particular, when choosing an employee to be made redundant from among employees belonging to the same category and job description who are of the same standard in terms of ability, qualifications and performance, the employer must also take into account the social and financial criteria of seniority. This is assessed in terms of the duration of employment in the specific company (without taking into consideration previous employment), age, family status, efficiency, and possibility of finding another job. In this last case, it is checked whether it is possible for the employer to offer another job to the employee, even in a lower position than the one currently held, if such a vacancy exists in the company and if the employee to be made redundant is suitable to fill it.

Under the Greek law (Law 3863/2010), collective dismissal is defined as dismissals affecting:

- more than six employees in companies with 20 to 150 employees; and
- more than 5% of the workforce or more than 30 employees in companies with more than 150 employees.

Comments

There are many examples in the case law of redundancies being annulled because the employer did not take the social criteria into account, or did not inform the employees' representatives in writing of the criteria for redundancies. For example, supreme court judgment 13/2014 annulled the dismissal of a worker as the company did not take into account the social and other criteria when choosing whom to dismiss. In particular, the employee had 15 years of service, was married with three minor children, and was replaced by a younger worker with fewer years of service and no family responsibilities. Therefore, according to the court, the dismissal was not based on objective criteria and was thus void, being manifestly and excessively contrary to good faith and the social and economic purpose of the employer's right to terminate the employment contract.

Cost covered by

Not applicable

Involved actors other than national government

Trade union

Works council

Thresholds

No, applicable in all circumstances

Sources

 [Law 1387/1983](#)

 [Law 3863/2010](#)

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Contact us

Eurofound, Wyattville Road, Loughlinstown, Co. Dublin, D18 KP65, Ireland

Phone: (00) 353 1 2043100

E-Mail: information@eurofound.europa.eu

Press: media@eurofound.europa.eu



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