

## Greece

# Selection of employees for (collective) dismissals

### Phase

-Law 4808/2021 (Official Government Gazette A' 101/19.06.2021), "For Labour Protection - Establishment of an Independent Authority 'Labour Inspection' - Ratification of Convention 190 of the International Labour Organization on the Elimination of Violence and Harassment in the World of Work - Ratification of Convention 187 of the International Labour Organization on the Framework for the Promotion of Safety and Health at Work - Incorporation of Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on the balance between professional and private life, other provisions of the Ministry of Labour and Social Affairs and other urgent regulations", as amended by Law 5053/2023 (Official Government Gazette A' 158/26.09.2023), "To strengthen work - Integration of Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 - Simplification of digital processes and strengthening of the Work Card - Upgrading the operational function of the Ministry of Labour and Social Security and the Labour Inspectorate" -Law 1387/83 on collective dismissals; Law 3863/2010 on the New Social Security System and relevant provisions. Regulations on Labour Relations

<b>Native name</b>	-Νόμος 4808/2021 (ΦΕΚ Α' 101/19.06.2021), "Για την Προστασία της Εργασίας - Σύσταση Ανεξάρτητης Αρχής «Επιθεώρηση Εργασίας» - Κύρωση της Σύμβασης 190 της Διεθνούς Οργάνωσης Εργασίας για την εξάλειψη της βίας και παρενόχλησης στον κόσμο της εργασίας - Κύρωση της Σύμβασης 187 της Διεθνούς Οργάνωσης Εργασίας για το Πλαίσιο Προώθησης της Ασφάλειας και της Υγείας στην Εργασία - Ενσωμάτωση της Οδηγίας (ΕΕ) 2019/1158 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου της 20ής Ιουνίου 2019 για την ισορροπία μεταξύ της επαγγελματικής και της ιδιωτικής ζωής, άλλες διατάξεις του Υπουργείου Εργασίας και Κοινωνικών Υποθέσεων και λοιπές επείγουσες ρυθμίσεις", όπως τροποποιήθηκε από το Νόμο 5053/2023 (ΦΕΚ Α' 158.09.2023), "Για την ενίσχυση της εργασίας - Ενσωμάτωση της Οδηγίας (ΕΕ) 2019/1152 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου της 20ής Ιουνίου 2019 - Απλοποίηση ψηφιακών διαδικασιών και ενίσχυση της Κάρτας Εργασίας - Αναβάθμιση της επιχειρησιακής λειτουργίας του Υπουργείου Εργασίας και Κοινωνικής Ασφάλισης και της Επιθεώρησης Εργασίας" -Ν. 1387/1983: Έλεγχος Ομαδικών Απολύσεων και άλλες διατάξεις; Ν. 3863/2010: Νέο Ασφαλιστικό Σύστημα και συναφείς διατάξεις. Ρυθμίσεις στις Εργασιακές Σχέσεις
<b>Type</b>	Selection of employees for (collective) dismissals
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## Article

-Law 4808/19.06.2021, Section IV: 'Regulations to Protect Work', Article 66: 'Protection from Dismissals' -Article 3 of Law 1387/1983; 74 paragraph 7 of Law 3863/2010

## Description

Law 4808/2021, by virtue of art. 66, includes for the first time a list of cases of invalid dismissals, related to specific categories of employees:

- cases already provided by existing laws -war veterans and people with disabilities under a mandatory employment relationship; members of the BoD of a union (for the period during their office and one year after); employees in military service; pregnant employees, and new mothers, during the pregnancy, and for a period of 18 months as of the birth date;
- cases formulated in the past years by case Law such as, dismissals in retaliation for the exercise of a legal right by the employee, and
- newly introduced cases in line with other provisions of the new Labour Law -protection from dismissal of fathers and for a period of six months as of the birth date; of the retrained workers in tourism businesses; due to the exercise of rights against workplace discrimination, violence and harassment; to employees' rights of receiving or requesting to receive any type of legal leave; to flexible arrangements available to parents and carers; to the dismissal of employees who exercise the 'right to disconnect' (teleworkers), or who refuse (to apply for) working time arrangements (changes in working status, or schedule).

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.

## Commentary

By virtue of Law 4808/2021, there is a reversal of the burden of proof in favour of the employee. If a dispute occurs, due to an employee's dismissal on grounds of a requested or received leave, or flexible regulation, and/or exercised relevant rights, the employee needs to cite facts for being dismissed due to one of the prohibited reasons. In this case, the employer has the burden of proving that the dismissal is due to reasons other than the ones prohibited. In addition, by virtue of Law 4808/2021, a similar prohibition as that of not dismissing a pregnant woman, or a lactating mother, unless there is a great reason, is introduced for the working father, for six months after the birth, provided, also, that there is a great reason. The Law explicitly states that by no means a reduction of performance, due to the mother's pregnancy or the family obligations, of the working parent can be considered as a great reason.

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.

## Additional metadata

<b>Cost covered by</b>	None
<b>Involved actors other than national government</b>	Trade union Works council Court
<b>Involvement (others)</b>	None
<b>Thresholds</b>	Affected employees: No, applicable in all circumstances Company size: No, applicable in all circumstances Additional information: No, applicable in all circumstances

## Sources

- [Law 1387/1983](#)~~~ [Law 3863/2010](#)~~~ [Law 4808/2021, as amended by Law 5053/2023](#)~~~

## Citation

Eurofound (2015), Greece: Selection of employees for (collective) dismissals, Restructuring legislation database, Dublin