

Greece

Wage guarantee in case of insolvency

Phase	<p>-Law 4738/2020 (Official Government Gazette A' 207/27.10.2020). "Debt Settlement and Facilitation of a Second Chance", as amended by Law 4818/2021 (Official Government Gazette A 124/18.07.2021) "a) Incorporation into Greek legislation of provisions of Directives (EU) 2017/2455, (EU) 2019/1995 and (EU) 2018/1910 regarding obligations arising from value added tax for the provision of services and distance sales of goods and related arrangements; b) Amendments to Law 4649/2019 "Programme for the provision of guarantees in securitizations of credit institutions" (A' 206), based on the approval decision of the European Commission under documents C(2021) 2545/9.4.2021 (2021/N) for the extension of the program " HERAKLIS" c) Provisions for the settlement of debts and the provision of a second chance -Amendments to Law 4738/2020 and other provisions d) Other urgent provisions of the competence of the Ministries of Development and Investments, National Defence, Culture and Sports, Infrastructure and Transport, & Law 5043/2023 (Official Government Gazette A' 91/13.04.2023), "Regulations concerning Local Government Organizations of the first and second degree; Provisions for the well-being of companion animals; Provisions for the human resources of the public sector; Other regulations of the Ministry of the Interior and other urgent provisions" -Circular no. 1027/2018 Amendment of the bankruptcy code (Law 3588/2007 – GG A 153) by Law 4446/2016 (GG A 240), Law 4472/2017 (GG A 74), Law 4491/2017 (GG 152) and Law 4512/2018 (GG A 5): Key changes in the bankruptcy process and provision of directions; Law 1836/1989 - Promoting employment and vocational training and other provisions</p>
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Native name	<p>-Νόμος 4738/2020 (ΦΕΚ Α' 207/27.10.2020), "Ρύθμιση οφειλών και παροχή δεύτερης ευκαιρίας και άλλες διατάξεις", όπως τροποποιήθηκε από το Ν. 4818/2021 (ΦΕΚ Α' 124/18.07.2021), "α) Ενσωμάτωση στην ελληνική νομοθεσία διατάξεων των Οδηγιών (ΕΕ) 2017/2455, (ΕΕ) 2019/1995 και (ΕΕ) 2018/1910 όσον αφορά υποχρεώσεις που απορρέουν από τον φόρο προστιθέμενης αξίας για παροχές υπηρεσιών και πωλήσεις αγαθών εξ αποστάσεως και σχετικές ρυθμίσεις β) Τροποποιήσεις του ν. 4649/2019 «Πρόγραμμα παροχής εγγύησης σε τιτλοποιήσεις πιστωτικών ιδρυμάτων» (Α' 206), βάσει της υπό στοιχεία C(2021) 2545/9.4.2021 (2021/N) εγκριτικής απόφασης της Ευρωπαϊκής Επιτροπής για παράταση του προγράμματος «ΗΡΑΚΛΗΣ» γ) Διατάξεις για τη ρύθμιση οφειλών και την παροχή δεύτερης ευκαιρίας -Τροποποιήσεις του ν. 4738/2020 και λοιπές διατάξεις δ) Λοιπές επείγουσες διατάξεις αρμοδιότητας Υπουργείων Ανάπτυξης και Επενδύσεων, Εθνικής Άμυνας, Πολιτισμού και Αθλητισμού, Υποδομών και Μεταφορών", και το Ν. 5043/2023 (ΦΕΚ 91/Α/13.04.2023), "Ρυθμίσεις σχετικά με τους Οργανισμούς Τοπικής Αυτοδιοίκησης α' και β' βαθμού; Διατάξεις για την ευζωία των ζώων συντροφιάς; Διατάξεις για το ανθρώπινο δυναμικό του δημοσίου τομέα; Λοιπές ρυθμίσεις του Υπουργείου Εσωτερικών και άλλες επείγουσες διατάξεις" -ΠΟΛ.1027/2018 Τροποποίηση του Πτωχευτικού Κώδικα (ν. 3588/2007 - Α' 153) με τους ν. 4446/2016 (Α'240), ν. 4472/2017 (Α' 74), ν. 4491/2017 (Α' 152) και ν. 4512/2018 (Α'5): Επισήμανση βασικών μεταβολών στη διαδικασία της πτώχευσης και παροχή οδηγιών; Ν. 1836/1989 - Προώθηση της απασχόλησης και της επαγγελματικής κατάρτισης και άλλες διατάξεις</p>
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Article

-Law 4738/2020, Chapter III: 'Consequences of Bankruptcy as to Employment Agreements', Article 109, para 1, 2 & 3: 'Employment Contracts', as amended by Law 4818/2021, Article

35, para 8 & 9: 'Improvement of arrangements during bankruptcy - Amendments to Book Two of Law 4738/2020' -Circular no. 1027/2018 whole regulation; Article 17 of Law 4472/2017; Law 1836/1989 Article16

Description

By virtue of art. 109, of Law 4738/2020, as amended by Law 4818/2021, in any case of bankruptcy, the validity of the termination of the employment contract does not require the payment of the legal severance compensation (para 1). With regard to employment contracts, the annulment of the contract is equivalent to termination, and, as such, with the obligation to provide compensation to the employee (para 1a, as added by para 8, art. 35 of Law 4818/2021). The employees' claims from wages and other benefits that arose before the declaration of bankruptcy, as well as any claim related to the declaration, such as in particular statutory compensation, are bankruptcy claims, for which the employees are satisfied as bankruptcy creditors in the most specific relevant classification of creditors provisions (article 109, para 2). An employee who actually continues to provide work after the bankruptcy is declared, for wages and related benefits, is satisfied as a group creditor. In this case of continued employment, claims arising from subsequent termination of the employment contract are satisfied as group credits (para 3, as amended by para 9, art. 35 of Law 4818/2021).

The inclusion of employees in the list of creditors in cases of the bankruptcy of an enterprise has changed, with absolute priority being given to the payment of compensation to unpaid workers for a six-month period, calculated as 2.75 multiplied by the minimum wage of €586.08, for example €1,611.72 per month. Essentially, this sum of €1,611.72 multiplied by six months (corresponding to €9,670.32) will be the maximum limit for the absolute priority of unpaid employees over all the other creditors of an enterprise ([Circular no. 1027/2018](#)).

The purpose of the 'account to protect employees in the event of an employer's insolvency' is to pay salary arrears of up to three months to employees in a dependent employment relationship who have not been paid because of the insolvency of their employer. The labour force employment organisation ([OAED](#)) takes the place of the employer in respect of the rights of employees and pays the relevant social security contributions in respect of their salaries. Any outstanding salaries paid to beneficiaries must fall within the six-month period prior to the date of the employer's application for the business to be declared bankrupt or the date of publication of the ministerial decision withdrawing the operating licence (for liquidation of a business). Thereof, the maximum amount that the beneficiaries can claim is up to three months' salary, including credits such as holiday payments, among others. Severance pay is not reimbursed.

Beneficiaries

The recipients of benefits due to employer insolvency are employees:

- of a business declared bankrupt by a judicial decision ruling that the undertaking has definitively closed down and that there is no need to initiate bankruptcy proceedings due to insufficient assets;
- of a business which has entered liquidation; or
- of an (insurance) business whose operating licence has been revoked due to violation of the provisions of private insurance legislation.

Deadlines

The right of an employee to receive salary in arrears from the account to protect employees in the event of an employer's insolvency is exercised by the employee's written application to the competent service of the OAED (public employment service), no later than six months after:

- the publication of the decision declaring the employer's bankruptcy;
- the date that the undertaking entered into liquidation; or
- the date that the operating licence of the (insurance) undertaking was revoked due to violation of the provisions of private insurance legislation.

Entitlement to these benefits lapses after six months.

Commentary

Article 109 of Law 4738/2020 repealed a 100-year-old provision, according to which, for the validity of a dismissal notice, the payment of compensation is mandatory. Henceforth, in any case of bankruptcy, the termination of employment contracts no compensation is required; employees for compensations, salaries, accruals, etc. they will be classified as joint creditors in line with the State, Banks and Funds. Under Law 4738/2020 the consequences of bankruptcy affects employees' rights since the payment of the legal severance compensation is now classified simply as a bankruptcy claim; the employees' claims from wages and other benefits that arose before the declaration of bankruptcy, as well as any claim related to the declaration, such as in particular statutory compensation, are bankruptcy claims, for which the employees are satisfied as bankruptcy creditors. Law 4818/2021 provides (as it previously provided) that the validity of the termination of the employment contract does not require the payment of compensation. However, the Law added paragraph 1A to article 109 of Law 4738/2020 (with para 8, art. 35, Law 4818/2021) which defined that, the termination of the employment contract (in any case, i.e. sale, total

or separate), is equivalent to a termination and is therefore a generative reason for the payment of compensation. Finally, para 2 (of Law 4738/2020) and para 3 (as supplemented by Law 4818/2021) define which labour claims constitute bankruptcy and which group loans.

The wage guarantee in case of insolvency has been provided to many individuals, given that since 2010 the number of enterprises which become insolvent has grown substantially. However, there are no data published by the OAED regarding how many individuals exactly have received the wage guarantee.

The wage guarantee in case of insolvency is an important benefit for people who lose their job in Greece, where the rate of enterprises closing down is high (estimations by the Hellenic Confederation of Professionals, Craftsmen and Merchants - [GSEVEE](#) - show that between 2010 and 2015 230,000-250,000 SMEs closed down, which led to 800,000 people losing their job), and the unemployment benefit is low (approximately €360 per month in 2017 and 2018) compared to the [cost of living](#) and provided for a limited time only (approximately one year). Since February 2019, the benefit increased to €399.25 per month.

Even if the wage guarantee in case of insolvency is a relief for people entering unemployment, it is provided for a limited time and given that social protection in Greece is in general limited, it cannot guarantee in the mid- and long-term a living standard above the limit of poverty for the people who lose their jobs.

An extra provision (not in the sense of wage guarantee but in the sense of taking extra steps to guarantee a proper income for a limited period of time) in case of insolvency is provided for in the law (Law 4472/2017, Article 17: In Article 3 of Law 1387/1983 (GG A 110), paragraph 4): 'In the framework of consultations with employee representatives, the employer may suggest a social plan for the workers being made redundant, that is measures to alleviate the effects of redundancy, such as sums to cover self-insurance, sums available through corporate social responsibility for training and counselling for reintegration into the labour market, actions to exploit special OAED programmes for dealing with the threatened unemployment of the workers being made redundant, and the possibilities, methods and criteria for their priority rehiring.'

Additional metadata

Cost covered by Employer Companies

Involved actors other than national government	Court Trade union Works council
Involvement (others)	State, Bankruptcy Administrator, E-auction platform, Creditors' Assembly
Thresholds	Affected employees: No, applicable in all circumstances Company size: No, applicable in all circumstances Additional information: No, applicable in all circumstances

Sources

- [OAED, Account for the protection of employees in case of insolvency](#)~~~ [Law 1836/1989](#)~~~ [Circular 1027/ 2018](#)~~~ [Law 4472 / 2017](#)~~~ [Numbeo \(2019\), Cost of Living in Greece.](#)~~~ [GSVEE \(2019\), IME GSEVEE 2019 report on small and medium-sized enterprises.](#)~~~ [Law 4738/2020](#)~~~ [Law 4818/2021](#)~~~ [Law 5043/2023](#)~~~

Citation

Eurofound (2015), Greece: Wage guarantee in case of insolvency, Restructuring legislation database, Dublin