

Greece

Margarita Matsi, Kelemenis & Co Law Firm

www.practicallaw.com/5-500-2770

GENERAL

1. Do the main laws that regulate the employment relationship apply to:

- Foreign nationals working in your jurisdiction?
- Nationals of your jurisdiction working abroad?

Laws applicable to foreign nationals

Employment relationships are regulated by:

- The Constitution.
- International treaties.
- European directives and regulations.
- The Civil Code.
- Specific employment laws.
- Collective agreements and arbitral decisions dealing with such collective agreements.
- Internal company regulations.

These sources of law, together with case law, are generally applied to foreign nationals working in Greece (*see Question 4*). The parties can choose the law of a different jurisdiction to regulate their employment relationship provided they respect all mandatory rules. However, there are so many rules in Greek employment legislation (for example, concerning working hours, overtime work, the minimum wage, the protection of maternity and pregnancy) that the choice of governing law other than Greek law is almost impossible for a Greek employment relationship, including where a foreign national is working in Greece.

Laws applicable to nationals working abroad

Generally, Greek employment laws are applied only in Greece, and Greek nationals working abroad are excluded from their application. Exceptions can be created by Greece's bilateral agreements with other countries and by the contract regulating a particular employment relationship. Directive 96/71/EC concerning the posting of workers (Posted Workers Directive) provides an additional exception for employees working in a member state other than the member state of the employee's origin.

EMPLOYING PEOPLE

2. Are there any age or nationality restrictions on managers or company directors? If so, please give details.

Age restrictions

There are no age restrictions. Managers and directors, as with any contracting individual, must be at least 18 years old (*Article 127, Civil Code*).

Nationality restrictions

There are no nationality restrictions for managers and directors. However, certain time-consuming formalities for nationals of third (that is, non-EU) countries must be observed to obtain a work permit (a prerequisite for a foreign national to become a director or an officer).

3. Are any grants or incentives available for employing people? If so, please give details.

Grants and incentives are provided by the Ministry of Employment, the Ministry of Development and state bodies, such as the Greek Manpower Organisation (*Organismos Apascholis Ergatikou Dynamikou*) (OAED), to support employment and job creation and/or to enhance the employability of the Greek workforce. These grants and incentives range from subsidised training and subsidised salaries for those previously unemployed to substantial large-scale support schemes of the Greek Investment Law (Statute 3299/2004) to undertakings wishing to finance their labour intensive development/restructuring.

4. What permits do foreign nationals require to work in your country? Please explain:

- How these permits are obtained.
- How much they cost.
- How long the process takes.

Required permits

Given the principle of free movement of persons, foreign nationals originating from EU/European Economic Area (EEA) member states are not required to obtain a work permit to be lawfully

employed in Greece. On the contrary, foreign nationals from third countries must obtain a work permit, which must always be accompanied by a residence permit and entry permission (visa). In addition, every foreign national working in Greece, including those coming from EU countries, must obtain a tax registration number and a social security card.

Obtaining permits

Work and residence permit. A work and residence permit must be issued to non-EU/EEA nationals wishing to work in Greece by the Ministry of Internal Affairs or the competent prefecture (*Law 3386/2005*). The procedure is initiated by an invitation to the prospective employee by the Greek employer. The supporting documentation for issuing permits includes:

- Two completed application forms.
- Three colour photographs of the applicant.
- Certified photocopy of the applicant's passport or other relevant travel document.
- Fee of EUR150 (about US\$212).
- A health certificate issued by a Greek public hospital or public health centre, which demonstrates the applicant is unaffected by dangerous diseases that may be infectious, parasitic or contagious.
- A certificate verifying that the applicant has applied to the Social Insurance Authority for medical care insurance or other equivalent document.
- The employment/service agreement (for managers or directors).
- A certified copy of the Government Gazette publishing their appointment, for board members, administrators or legal representatives.

Visa. To obtain a visa, an employee must apply through the Greek embassy or consulate by submitting the following documents:

- Certified copy of valid passport or other identity document.
- Criminal record certifying the applicant's criminal sentences, if any.
- Medical certificate from a recognised public or private entity, indicating the applicant is unaffected by dangerous diseases which may be infectious, parasitic or contagious.
- Travel insurance which covers any costs arising from repatriation for medical reasons.
- A completed application form.
- Two recent photos.
- Certified copy of the employment contract that has been, or is to be, entered.
- Confirmation by the prospective employer that it will ensure full health care coverage during the period of the applicant's employment in Greece.

Cost. If it is the employee who pursues the prospect of working in Greece the cost is EUR150 (about US\$212) and covers a one-year work and residence permit, which can be renewed by paying the fee. If a particular employer invites the employee to work for

him in accordance with the procedure in Articles 14 to 17 of Statute 3386/2005 (invitation procedure), the cost may be up to EUR1,200 (about US\$2,120).

Duration of the process

If the employee is invited by an employer to work in Greece, the process may last at least two years. If an employee enters at his own initiative, permits can be obtained in about two months. The employee's country of origin also affects the duration of the permit procedure.

TERMS OF EMPLOYMENT

5. What terms govern the employment relationship? In particular:

- **Is a written employment contract or statement of employment terms required?**
- **Are any terms implied by law into the employment contract (in addition to the terms referred to in Question 1)?**
- **Are collective agreements with trade unions or employee representatives common (generally or in specific industries)?**

Written employment contract

A written employment contract is not necessary. The employment relationship can be concluded either in writing or orally, or even tacitly when the employee offers his work and the employer does not oppose such an offer. However, exceptions include employment contracts with the Greek state or certain industries (for example, leisure industries including hotels) where a written document is always required.

Implied terms

When concluding an employment contract, the employer must always inform the employee about essential employment terms including the:

- Employer's full identity.
- Work location.
- Employee's position and a precise description of tasks.
- Duration of the contract and its start date.
- Salary and the terms of payment (for example, due date and way of payment).
- Daily and weekly working hours.
- Duration of the paid annual leave.

Apart from the notification of these terms by the employer, employment legislation also sets out mandatory rules for all employers that cannot be deviated from. Generally, these rules refer to the:

- Minimum wage.
- Working hours.
- Prohibition of juvenile work.
- Employer's liability in case of a labour accident.
- Termination of an employment contract.

Collective agreements

Apart from the National General Collective Agreement, which applies to all employees and ensures the minimum wage, there are many other collective agreements, concerning:

- Specific industries.
- Particular industry branches.
- Geographical locations.
- Specific professions/occupations.

6. Is there a minimum wage? If so, please give details, in particular whether it applies to all employees, regardless of their age and experience.

The minimum wage for all employees is (*National General Collective Labour Agreement for 2008/2009*):

- EUR33.03 (about US\$47) for manual employees (daily wage).
- EUR739.57 (about US\$1,047) for non-manual employees (monthly wage).

7. Are there restrictions on working hours? If so, please give details.

All employees must not work more than 40 hours per week or eight hours per day in a five-day working week (*Article 6, National General Collective Labour Agreement of 14 February 1984*). If an employee is asked to work five extra hours per week, his hourly working wage will be increased by 25% (*Article 4, Statute 2874/2000*). If an employee exceeds 45 hours work per week, this is considered overtime, and his hourly working wage is increased by 50%. If an employee exceeds 120 hours in overtime, his daily wage is increased by 75%.

8. Is there a minimum holiday entitlement? If so, please give details. How many public holidays are there in a year and are they included in the minimum holiday entitlement?

Employees who work a five-day week and have completed 12 months' employment under the same employer are entitled to a paid annual leave of 20 working days. For employees working a six-day week, annual holiday leave is increased to 24 working days. Annual leave is increased by one day for each year of employment up to an additional 22 working days for five-day week employees and to an additional 26 working days for six-day week employees.

There are four annual paid public holidays, which are not included in the minimum holiday entitlement. These are:

- Christmas Day.
- The second day of Easter.
- 15 August.
- 25 March.

There are also two days of optional paid public holidays:

- 1 May.
- 28 October.

9. What rights do employees have to time off in the case of illness or injury? Is that time off paid? Can an employer recover from the state sick pay granted to its employees?

Employees can have time off for illness or injury. Time off is relevant to the duration of employment as follows (*Article 5, Statute 2112/1920, as amended by Article 3, Statute 4558/1930*):

- One month for employees working less than four years.
- Three months for employees working more than four years but less than ten.
- Four months for employees working more than ten years but less than 15.
- Six months for employees working more than 15 years.

During time off work for illness or injury, the employee retains his right to salary, which will be paid either by the employer or by the relevant social security organisation (*Idrima Koinonikon Asfaliseon*) (IKA). The employer must pay the employee half his monthly salary, if the employee works under the same employer for less than a year, or one month's salary, if the employee works under the same employer for more than a year (*Article 658, Greek Civil Code*). If the employee is absent due to illness for more than one month, the payment of the employee's salary is at the employer's discretion, which is completely independent from any other illness benefit the employee receives from IKA.

The employee can obtain sickness benefit from his social security organisation, granted after the fourth day of illness (*Article 5, Statute 178/1967*). In this case, the employer must pay half of the employee's daily remuneration for the first three days of illness or injury. The employee cannot request payment of his whole daily remuneration from IKA for these three days. From the fourth day, the employee can receive sickness benefit from IKA, calculated based on the employee's salary during the last 30 days of the year preceding notification of his illness.

10. What are the statutory rights of employees who are parents or carers (including those of disabled children and adult dependants)? How is employees' pay affected during periods of leave?

Maternity rights

Mothers are entitled to 17 weeks' paid leave (*National General Collective Labour Agreement of 2000/2001*) both:

- Eight weeks before birth.
- Nine weeks after birth.

Further, mothers are entitled to reduced working hours for 30 months after maternity leave ends (*Article 9, National General Collective Labour Agreement of 1993*). This means that they can either arrive at work one hour later or leave work one hour earlier.

In addition, Statute 3655/2008 introduced the protection of motherhood, so that mothers can have an additional six-month leave after the expiration of the maternity leave provided by Article 142 of the National General Collective Labour Agreement of 2000/2001, which they can take before or after exercising their right to reduced working hours.

Paternity rights

Fathers are entitled to two days' paid leave for the birth of each child (*Article 10, National General Collective Labour Agreement of 2000/2001*). A father is also entitled to reduced working hours (*Article 9, National General Collective Labour Agreement of 1993*), if the mother does not make use of her relevant rights.

Adoption rights

Parents who adopt children not older than six years old (*Article 9, National General Collective Labour Agreement of 1993*) are entitled to reduced working hours (*Article 8, National General Collective Labour Agreement of 2000/2001*).

Parental rights

Employees who are parents of natural or adopted children have the following rights (*Statute 1483/1984*):

- Leave for caring for children. Leave is granted to parents provided they work continuously with the same employer for one year and the child is not older than three years and six months. This leave is granted for each child, cannot exceed three and half months for each parent and is non-paid. Parents who have already made use of parental leave for one child must complete one additional year of employment before requesting additional parental leave.
- Leave for school visits. Parents of children not older than 16 years are also entitled to paid leave to be informed on the school progress of their children. Leave for school visits cannot exceed four days per year.

Carers' rights

Employees with children who suffer from diseases that require blood transfusions or periodic hospital treatment can take paid leave of up to 22 working days per year (*Article 50, Civil Servants' Code*). The same also applies to parents with children suffering from acute intellectual diseases or Down's syndrome.

The right to leave also applies to employees taking care of dependant family members. This leave is:

- Unpaid (*Statute 1483/1984*).
- Independent of any other leave.
- Up to six working days per year.

If the employee has two dependent children, his leave can total eight working days. If he has more than two children, his leave can total 14 working days. The following are considered dependent family members:

- Natural or adopted children under 16 years old under the employee's care.
- Children older than 16 years under the employee's care, needing special care because of serious or chronic diseases or invalidity.

- Spouses who cannot take care of themselves because of serious or chronic diseases or invalidity.
- Parents or unmarried siblings who cannot take care of themselves because of a serious or chronic illness or invalidity or old age, provided they are under the employee's care and their annual income does not exceed the annual income of a manual employee on a minimum wage (*see Question 6*).

11. Does a period of continuous employment create any benefits for employees? If individual employees are transferred to a new entity, are they deemed to retain their period of continuous employment?

Benefits

A period of continuous employment can create important benefits for employees, such as:

- Annual holidays (*see Question 8*).
- Sickness absence (*see Question 9*).
- Parental leave (*see Question 10*).
- Remuneration bonuses and severance payments (*see Question 15*).

Transfer

If employees are transferred to a new entity, they retain their period of continuous employment, as well as all rights relating to their previous employment relationship (*Presidential Decree 178/2002* and *EU Directive 2001/23/EC on safeguarding employees' rights on transfers of undertakings, businesses or parts of businesses*).

TEMPORARY AND AGENCY WORKERS

12. To what extent are temporary and agency workers entitled to the same rights and benefits as permanent employees?

Although some attempts have been made to introduce provisions for the protection of temporary and agency workers, no such provisions are in force. Due to the lack of specific legislation, courts have consistently ruled that temporary and agency workers are entitled to all the rights and benefits that permanent employees enjoy, particularly to those relating to minimum wage, working hours and annual paid leave. They are also entitled to illness or injury leave, which can be accompanied by illness or injury benefits from IKA, provided they have been in employment for at least 100 days during the previous year. As for permanent employees, temporary and agency employees maintain all their employment rights, in a business transfer.

EMPLOYEE PROTECTION

13. What statutory data protection rights do employees have?

The protection of the employee's personality and privacy is one of the employer's most significant obligations. However,

the collection of employee's personal data is allowed if (*Law 2472/1997*):

- It is conducted in a fair and lawful manner for specific, explicit and legitimate purposes and be processed only for these purposes.
- The data is suitable, relevant and not excessive in relation to the purpose.
- The data is exact and kept up to date, if necessary.
- The data is maintained in a manner allowing the identification of persons to a degree that is necessary for the purpose. If necessary, the Data Protection Authority can make a reasoned decision to allow the maintenance of data for historical, scientific or statistical purposes, unless such maintenance offends the subject's or third parties' rights.

14. What protection do employees have from discrimination or harassment, and on what grounds?

Discrimination

Articles 4 and 22 of the Constitution provide for the principle of equal treatment of all employees and prohibit any kind of discrimination based on one's sex, race, age, political convictions, religion, sexual orientation and so on. The principle means that all employees must have:

- The same possibilities of access to employment.
- The same chances of career progress and promotion.
- Identical treatment by their employer, particularly concerning their remuneration and other voluntary financial benefits.

In particular, the principle of equal treatment is applied to all employees who have the same qualifications and provide the same type of work under the same conditions.

Harassment

An employer must respect the employee's personality and take all measures to protect the employee's dignity and civil rights (*Articles 2 and 5, Constitution and Article 57, Civil Code*). In particular, he must avoid acts of harassment, moral or sexual, which constitute illegal sexual discrimination, breaching the principle of equality between men and women (*Statute 3488/2006*). This obligation of the employer is outlined by the National General Collective Agreements of 2000/2001 and 2004/2005. The courts have ruled that sexual harassment includes words, gestures, invitations, and the showing of pornographic photos.

15. Do whistleblowers have any protection? If so, please give details.

Employment legislation does not include provisions concerning protection of whistleblowers.

DISMISSALS AND REDUNDANCIES

16. What rights do employees have when their employment contract is terminated? Please provide information on:

- Notice periods.
 - Severance payments.
 - Any procedural requirements for dismissal.
-

Notice periods

The employer must give the employee a notice period when terminating employment (*Statute 2112/1920*). This period depends on the duration of the employment relationship, which is:

- One month for employees with an employment relationship between two months and one year.
- Two months for employees with an employment relationship between one and four years.

The maximum notice period is 24 months for an employee with over 28 years' service. A longer notice period can be agreed with the employer. However, the employer does not have to observe this time period, in which case, the employee must receive increased severance payment.

The above provisions are only valid for non-manual employees. For manual employees, their employment termination does not require notice.

Severance payments

When an employment contract is terminated without notice, the employee is entitled to the remuneration that he would receive during the notice period (that is, one month's salary if he has been working between two months and one year, and two months' salary if he has been working between one and four years). When a notice period has been given by the employer, the employee is entitled to half of the above remuneration.

The employer does not have to pay severance to the employee if:

- He has already started criminal proceedings against the employee because of a criminal act the employee conducted at work.
- There is a judiciary decision against the employee for any kind of an indictable offence.
- Termination of the employment contract is the result of the employee's faulty behaviour, for example, if the employee intentionally breaches his duties to provoke dismissal and receive severance payment.
- The company ceases its operations because of force majeure.

A reduced severance payment is possible when the employment contract is terminated because of the employee's retirement.

Procedural requirements

Termination must be made in writing, and there must be proof of the employee having knowledge of his written termination. Eight days after termination of the employment contract and the employee's indemnification, the employer must notify the termination document both to OAED and to IKA, if the employee is registered with this social security body. Penalties can be imposed on employers who do not observe this obligation.

17. What protection do employees have against dismissal? Are there any specific categories of protected employees?**Protection of employees against dismissal**

An employee has three months to judicially question the validity of his dismissal by filing a lawsuit with the First Instance Court (*Article 6, Statute 3198/1955*). He can do so particularly when the employer does not observe lawful termination procedures (that is, payment of severance, written termination and so on) or if he considers the employer has made excessive use of his right to terminate the employment contract. In such cases, the employee can demand the First Instance Court to recognise the invalidity of his dismissal and order his return to work.

Protected employees

Employment legislation provides intense protection for certain categories of employees:

- Employees on annual leave. The employer cannot terminate employment during an employee's annual holiday leave (*Article 5, Statute 539/1945*).
- Pregnant women. The employer cannot dismiss a female during pregnancy or for a year after birth (*Article 15, Statute 1483/1984*).
- Employees executing military service. Employees who have been continuously employed by the same employer for six months cannot be dismissed while executing military service.
- Employees exercising trade union action. Employees cannot be dismissed because of lawful trade union action (*Article 14, Statute 1264/1982*). Intense protection is provided particularly for trade union board members.

18. What rules apply on redundancies?

Redundancies are regulated by Statute 1387/1983, which transposed Directive 75/129/EEC on the approximation of the laws relating to collective redundancies (Collective Redundancy Directive) into Greek law. This statute only applies to undertakings employing more than 20 employees and depends on the number of dismissals and on the size of the undertaking, that is for undertakings:

- With 21 to 200 employees, Statute 1387/1983 applies, if at least five dismissals take place in one month.
- With more than 201 employees, Statute 1387/1983 applies, if at least 30 dismissals take place in one month.

Redundancies can only be decided by the employer for reasons which are not relevant to the employee (for example, for financial and technical reasons). The proposal of redundancies must be notified by the employer to the employees' representatives. Then the employer must enter into consultations with the employees' representatives to examine ways to avoid dismissals or reduce their number or negative effects. Following consultations, the employer must notify their outcome to the Minister of Employment or to the Prefect. If the employer and the employees' representatives fail to reach an agreement, the competent administrative authority (the Minister of Employment or the Prefect) will decide on the case.

TAXATION OF EMPLOYMENT**19. What is the basis of taxation of employment income for:**

- Foreign nationals working in your jurisdiction?
- Nationals of your jurisdiction working abroad?

Foreign nationals

Foreign nationals working in Greece are subject to taxation on their Greek-sourced income (*Income Taxation Code*). This provision applies even if the person's residence is not in Greece.

Nationals working abroad

Greek nationals working abroad are subject to the Greek taxation system, if their residence is in Greece (*Income Taxation Code*). Greek nationals working abroad retain their tax residence in Greece. However, they can avoid double taxation if Greece has entered into a bilateral agreement with the country in which they work.

20. What is the rate of taxation on employment income? Are any other taxes or social security contributions levied on employers and/or employees? If so, please give details, including the rates.**Income tax**

For 2009, taxation for employment income is:

- 0% up to EUR12,000 (about US\$17,000).
- 25% between EUR12,000 and EUR30,000 (about US\$42,500).
- 35% between EUR30,000 and EUR75,000 (about US\$106,000).
- 40% over EUR75,000.

Social security contributions

The employer and the employee participate in social security contributions paid to the social security organisation (usually IKA). The employer must pay IKA all social security contributions within a month by deducting from the employee's gross salary the employee's contributions, at 40.25%. 15.67% is the employee's contributions and the remaining 24.58% is to the employer's contributions. IKA collects additional contributions for other organisations (such as the OAED) or the Employees' House (*Ergatiki Estia*).

LIABILITY

21. Are there any circumstances in which:

- An employer can be liable for the acts of its employees?
- A parent company can be liable for the acts of a subsidiary company's employees?

Employer liability

The employer is liable for any damage his employee caused illegally to third parties while executing his work (*Article 922, Civil Code*). This is because there is a dependent employment relationship between the employer and employee, under which the employee works under the employer's orders and instructions. In addition, the employer must take all necessary measures so that its employees do not cause damage to other people.

Parent company liability

It is not uncommon for parent companies to be liable for acts of their subsidiaries' employees. This is because parent companies exercise a high level control over their subsidiaries' activities, obliging them to follow all measures ensuring the safe conduct of work in their subsidiaries' companies.

22. What are an employer's obligations regarding the health and safety of its employees?

The employer must take all precautions to protect the life and health of employees (*Article 662, Civil Code*). Statute 1568/1985 specifies organising work locations in a manner to ensure a safe and healthy work environment. The employer is also expected to maintain locations and equipment in good condition, to prevent accidents and reduce dangers from using new working methods or machinery. In addition, companies with more than 50 employees must hire a workplace doctor and a safety technician specialised in health and safety issues.

CONSULTATION

23. Are employees entitled to management representation (such as on the board of directors) or to be consulted about issues that affect them? Is employee consultation or consent required for major transactions (such as acquisitions, disposals or joint ventures)?

Management representation

Employees are entitled to management representation through their trade unions. However, they are not usually represented on the board.

Consultation

Employees may be informed and consulted by the employer in important issues concerning the company's social and financial regime. This is usually done through trade union representatives and covers issues ranging from safety and health matters, collective dismissals, business transfer and major transactions. On the employees' demand, the employer must provide employees

with information about the company's status and prospects, which may have an impact on their employment with the company. However, most of these consultation exercises are made on a bona fide basis or as a means of not alienating the employer from employees, rather than as an outcome of legal requirements that restrict the employer's decision-making powers to any noticeable extent.

Major transactions

Employees are consulted concerning major transactions, particularly for business transfers. In business transfers, the employer must consult trade union representatives and work councils concerning the following issues (*Article 8, Presidential Decree 178/2002*):

- The date and reasons of transfer.
- The legal, economic and social consequences of the transfer for the employees.
- The measures to be taken to protect the employees.

In other cases, such as share sales, it is sufficient that the employer informs the employees' representatives.

24. What are the remedies that are available if an employer fails to comply with its consultation duties? Can employees take action to prevent any proposals going ahead?

Remedies

If, after the end of consultation procedures, the employer and the employees' representatives fail to reach agreement, they can demand the involvement of mediators or arbitrators. Mediation and arbitration procedures are regulated by Statute 1876/1990. If the employer does not observe his consultation duties, he may be liable to criminal and administrative fines.

Employee action

If the employer has breached his consultation duties, employees are entitled to bring the breach before the court and ask, under Statute 1876/1990, that the employer's plans be prevented from going forward. In practice, however, this is more theoretical, rather than a method of realistically producing tangible benefits for employees.

25. Is there any statutory protection of employees on a business transfer? In particular:

- Are they automatically transferred with the business?
- Are they protected against dismissal (before or after the disposal)?
- Is it possible to harmonise their terms of employment with other (existing) employees of the buyer?

Automatic transfer

In a business transfer, the employment relationship is automatically (*ipso iure*) transferred to the new employer (*Article 4, Presidential Decree 178/2002*).

Protection against dismissal

A business transfer is not a reason for an employee's dismissal (*Article 5, Presidential Decree 178/2002*). If an employee is dismissed in these circumstances, the dismissal is considered null and void.

Harmonisation

The new employer must observe all the employees' rights acquired during their previous employment relationship. However, the new employer can improve the employees' employment terms to harmonise their employment regime with existing employees. Harmonisation can involve issues such as:

- Salary.
- Working hours.
- Annual leave.
- Bonuses.
- Voluntary financial benefits.
- Severance payment.
- Other issues relating to the termination of employment.

PENSIONS**26. Do employers and/or employees make pension contributions to the state in your jurisdiction? If so, please give details of:**

- The contributions payable.
- The tax treatment of those contributions.
- The monthly amount of the state pension.

Contributions

Apart from contributions paid to the social security organisation (which, in most cases, is IKA), employers and employees do not pay other contributions to the state to finance state pensions.

Tax

IKA contributions are tax deductible (*Income Taxation Code*).

Monthly amount

This varies according to the beneficiary's previous occupation, seniority, specific personal circumstances and so on.

27. Is it common (or compulsory) for employers to provide access, or contribute, to supplementary pension schemes for their employees? Do such schemes provide pensions the value of which:

- Can usually be determined at the start of the arrangement (for example, the value is linked to the employee's salary)?
- Cannot usually be determined at the start of the arrangement (for example, the value is dependent on employer and employee contributions and investment return on those contributions)?

There are two types of supplementary pensions:

- **Subsidiary pensions (*epikourikes syntakseis*).** The employer must provide its employees with access to these pensions and pay contributions to the competent social security organisation. The value of such pensions is determined by the relevant social security organisation in accordance with applicable statutes and ministerial decisions.
- **Professional pensions (*epaggelmatikes syntakseis*).** The employer can provide employees with access to private pension schemes (*Law 3029/2002*). These supplementary pensions are voluntary, and depend on the parties' contractual freedom and the number of the employees working at the specific company. Only companies employing more than 100 employees can use pension schemes. These pensions are formed based on mutual contributions made by the employer and employee. It is difficult to pre-determine the value of the pension from the outset, because this is dependent on contributions and their investment return.

28. Is there a regulatory body that oversees the operation of supplementary pension schemes? If so, please briefly summarise the regulatory framework.**Subsidiary pensions**

Subsidiary pensions are regulated by a social security fund, the employed person's single insurance fund (*IKA-ETAM*), which is affiliated to IKA.

Professional pensions

Professional pensions are regulated by new private, non-profit organisations created under Article 7, Statute 3029/2002, known as Professional Social Security Funds (*Tameia Epaggelmatikis Asfalisi*) (TEA), under the supervision of the Ministry of Employment and Social Security. The fund's articles of association must be drawn up by a public notary and submitted for publication to the Government Gazette, following approval by the Ministry of Employment.

29. Are any tax reliefs available on contributions to supplementary pension schemes (by the employer and employees)? If so, please give details.

All contributions paid to social security organisations are tax deductible (*Article 8, Income Taxation Code*). This applies to mandatory and voluntary contributions payable to social security funds.

30. Can the following participate in a pension scheme established by a parent company in your jurisdiction:

- Employees who are working abroad?
- Employees of a foreign subsidiary company?

In both cases, the possibility of participating in a pension scheme established by a parent company is a question of contractual freedom, which depends on the internal regulations of the company administering or participating in the scheme. If permitted by the company's internal regulations, tax reliefs which apply to

other employees also apply to contributions paid by employees working abroad or employees of a foreign subsidiary company.

BONUSES

31. Is it common to reward employees through contractual or discretionary bonuses? Are there restrictions or guidelines on what bonuses can be awarded? If so, please give details.

Although it is not mandatory, employers often reward employees through contractual or discretionary bonuses. There are no restrictions on the types of bonuses awarded, but the most common are productivity bonuses, for when employees achieve certain targets set by the employer.

IP

32. If employees create IP rights in the course of their employment, do the employees or the employer own the rights?

There are three types of inventions and intellectual property rights (*Statute 1733/1987*):

- **Clerical invention.** This is created during the course of employment for the purposes of promoting inventive activities. This invention belongs entirely to the employer. If it is profitable for the employer, the employee is entitled to a reasonable remuneration.
- **Dependent invention.** An employee creates this invention making use of the employer's materials, means or information. This invention belongs by 40% to the employer and by 60% to the employee. Both the employer and employee must apply for a patent.
- **Free invention.** This is created by the employee during the course of his employment, but does not fulfil the above criteria and belongs entirely to the employee.

RESTRAINT OF TRADE

33. Is it possible to restrict an employee's activities during employment and after termination? If so, in what circumstances can this be done? Must an employer pay its former employees remuneration while they are subject to post-employment restrictive covenants?

Employees can be restricted by non-compete restrictive covenants during employment or after termination. Competitive activities include:

- Creating a new company conducting identical activities to the employer's company.
- Co-operating with a competitor.
- Defaming the employer's products or services.
- Soliciting the employer's clients.

Non-compete clauses must fulfil certain conditions and be rea-

sonably limited in terms of duration and geographical extent. They must also aim to protect the employer's lawful professional interests and must not excessively restrict the employee's occupational freedom. These clauses must also be accompanied by reasonable employee remuneration, as consideration. Otherwise, non-compete clauses are deemed void.

PROPOSALS FOR REFORM

34. Are there any proposals to reform employment law or pensions law in your jurisdiction?

Recent reforms

Changes in the retirement ages of employees of the public sector.

In 2007, courts were asked to deal with the discrepancy in the retirement age for men and women in the public sector. As the Administrative Court had difficulty in ruling whether the existing discrepancy (that is, women were entitled under various schemes to retire earlier than their male colleagues) was compatible with the principle of equality between men and women under Article 141 of the EC Treaty and Article 116 of the Constitution, the case was referred to the European Court of Justice (ECJ). The ECJ recently delivered its decision (*26-3/2009 ECJ, C-559/07*), under which the different retirement ages between men and women are against the principle of equality and breach the EC Treaty and Constitution. Consequently, Greece increased the retirement age of women in the public sector to 65. This reform will take effect in 2014 and is expected to be completed by 2025.

Unification of social security funds and amplification of maternity rights. Statute 3655/2008 unifies social security funds and bodies, in an attempt to resolve the various financial problems that the social security system has encountered in recent years. Consequently, three new funds of social security have been created, namely the:

- ETAA (Unified Fund of Independent Employees), providing pensions to, primarily, doctors, lawyers and engineers.
- ETAP-MME (Unified Social Security Fund), providing pensions to people working at the Mass Media sector.
- TAYTEKO (Social Security Fund for bank employees).

Apart from the creation of the above funds, Law 3655/2008 intensifies the maternity protection by providing mothers with additional maternity leave of six months (*see Question 10*).

Proposals to reform

A new draft law has recently been submitted to Parliament by the Ministry of Employment, to deal primarily with youth unemployment, which has struck a record high of 21%. The draft law offers important subsidies to young people and small- and medium-sized enterprises for up to four years. In addition, unemployment benefit will be increased to 70% (currently 55%), of the minimum wage.

CONTRIBUTOR DETAILS

Margarita Matsi
Kelemenis & Co Law Firm
 T +30 210 3612800
 F +30 210 3612820
 E mm@kelemenis.com
 W enquiries@kelemenis.com



Kelemenis & Co.

Law firm

Results-Driven Solutions

B A premium Greek law firm, Kelemenis & Co. has a leading employment practise with an excellent track record in acting for corporate clients on regulatory and contentious matters.



www.kelemenis.com