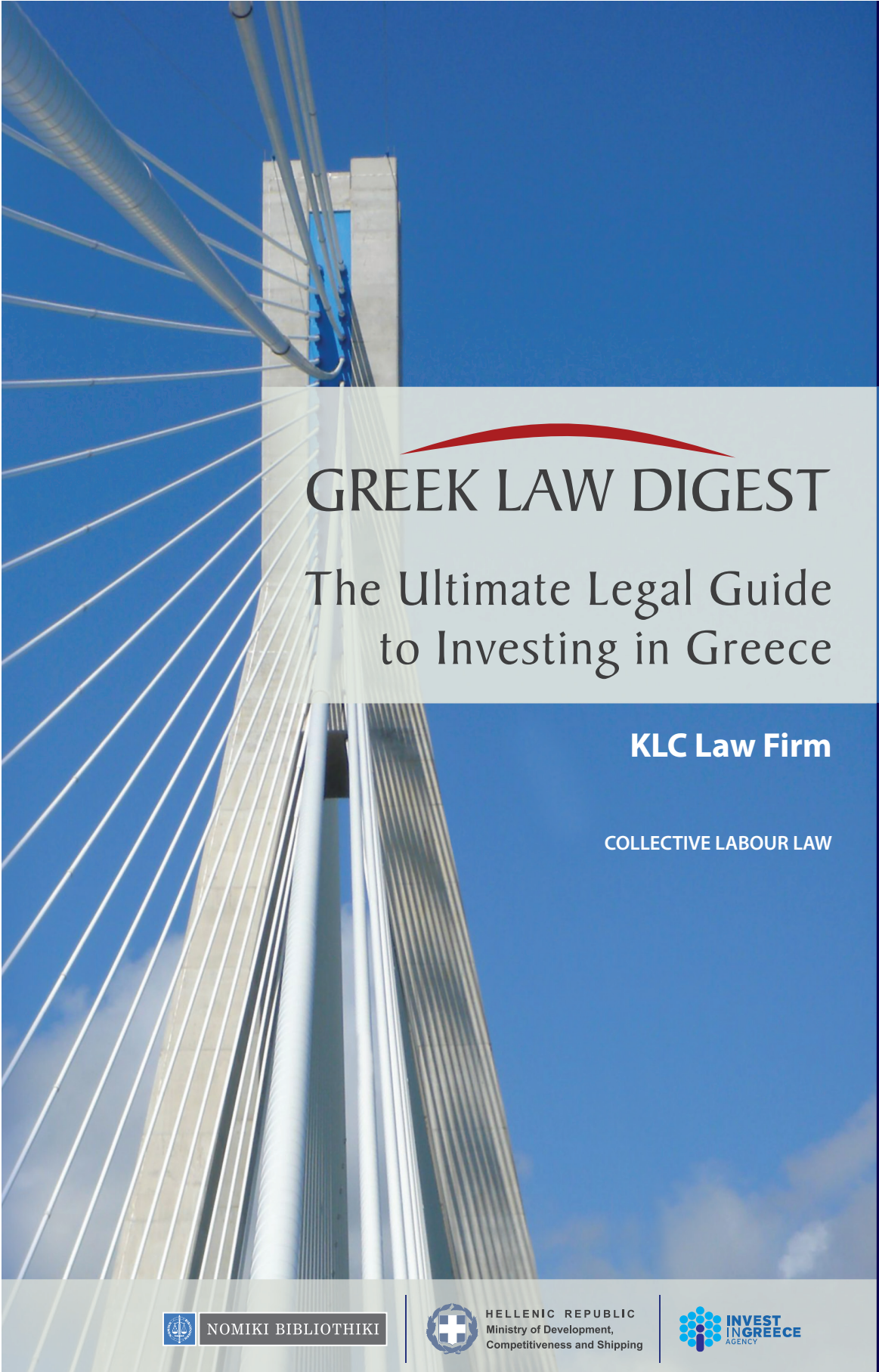

GREEK LAW DIGEST

The Ultimate Legal Guide to Investing in Greece

OFFPRINT

KLC Law Firm

COLLECTIVE LABOUR LAW

NOMIKI BIBLIOTHIKI

HELLENIC REPUBLIC
Ministry of Development, Competitiveness and Shipping

INVEST IN GREECE AGENCY

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EMPLOYMENT

HELLENIC REPUBLIC
Ministry of Development,
Competitiveness and Shipping

COLLECTIVE LABOUR LAW

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Partner at **KLC Law Firm**

A) COLLECTIVE BARGAINING / COLLECTIVE LABOUR AGREEMENTS

What is the content and the scope of a Collective Employment Agreement (CEA)?

A CEA is the agreement reached at as a result of collective bargaining between the Employer(s) on the one hand and trade unions on the other. CEA provisions apply to employees engaged under employment agreements of depended services of private nature, to people engaged in agricultural and related activities as well as to domestic employees. A CEA may regulate issues arising from the exercise of the trade union rights, social insurance issues except for pension issues, issues relating to the business policy as far as it affects employment relations, the interpretation of regulatory terms of CEA, rights and obligations of the contracting parties, the terms and conditions applicable to the individual employment agreements, as well as the mediation and arbitration procedures.

All the aforementioned employees fall under the scope of one CEA?

No, there are different kinds of CEAs, depending on their scope of application. In particular, there are: a) the General National CEA, that relates to the employees of all the country, b) Branch CEAs, that relate to employees that are engaged in the same branch of business activity of a certain area or of all the country, c) Professional (national and local) CEAs, that relate to employees that are engaged in the same profession in national or local level, and d) Business CEAs, that relate to employees engaged in the same undertaking.

Who is competent to conclude CEAs?

Any Employer is competent to enter into a CEA as regards all employees engaged in its undertaking, regardless of the number of the employees. On the part of the Employees, competent are the trade unions of all grades that are most representative within the scope of application of the specific CEA. The most representative trade union is determined by the number of employees who have voted at the last elections for the election of the members of union's Board of Directors. For instance, the General National CEA is concluded by third grade trade unions and employers' organisations of broad representation. Certain trade unions are not authorised to conclude CEA (local branch, labour centre, legal entities[1]). By way of exception, in case of absence of a competent first grade trade union to conclude CEA, legal entities are entitled to proceed to the conclusion of CEA, provided that they have been established by at least 3/5 of the

1. See below under C2

employees of the undertaking, irrespective of the total number of the undertaking's employees and that their duration is limited.

Are the terms of the CEA obligatory and to what extend? What happens if many CEAs are applicable in a specific employment relation?

As a general principle of labour law, the provision which is most favourable for the particular employment relation, initially as regards remuneration and then as regards other issues, is applicable. Based on the above, the following conclusions can be made:
a. The regulatory provisions of CEAs are directly enforceable in the sense that they prevail over any law provisions that contain less favourable provisions for the employee unless they are of mandatory nature for both parties.
b. The provisions of the individual employment agreement prevail over those in the CEA if the first are more favourable for the employee.
c. The provisions included in the Branch and the Business CEA prevail over those contained in the Professional CEA, even if they are less favourable for the employee.
d. The General National CEA contains the minimum statutory provisions for the employees of the country. Any deviation from the terms thereof to the detriment of the employees is absolutely prohibited.
e. As long as the application of the newly enacted Medium Term Legal framework of Financial Strategy (provisional law) is in force, in case of concurrence between Branch and Business CEA, the Business prevails, but it cannot contain provisions less favourable for the employees than those provided under the National General CEA.
f. In any case, in case of succession of CEA, the above general principle is not applicable.

Who is bound by the CEA?

a. The National General CEA binds the employees of all the country, as well as those engaged in the Public sector under an agreement of private nature, in legal entities of public law and in local authorities.
b. The other CEAs bind the members of the contracting parties thereof.
c. The Business CEA bind all the employees engaged in the Employer's undertaking.
d. Accession to the CEA is allowed if made by a trade union which is not bound by any other CEA and in relation to CEAs within its competence and binds the Employer.

What is the term and termination of the CEA?

The minimum duration of a CEA is one year and if set for a time period over one year is deemed to be of indefinite duration. The CEA is effective from the date of its registration in the book kept at the Labour Inspection Authority of the competent Prefecture and the competent central service of the Ministry of Employment and terminates after the lapse of the time period stipulated or by a termination notice. After the termination of the CEA, its statutory provisions remain valid for six months thereafter and apply on the newly employed personnel. After the lapse of the aforementioned period of six months the existing employment terms apply until the termination or amendment of the individual employment agreement. A CEA of indefinite duration can be terminated by termination notice after the lapse of one year since it has been entered into force and before that, it can be terminated if the working conditions have significantly been altered.

What are the penalties in case of violation of a provision of CEAs?

The infringement is certified by the Labour Inspector and a pecuniary penalty of an amount of approximately 600€ is imposed to the Employer.

B) STRIKES/LOCKOUTS

Is the right to strike provided under the Greek Law?

In Greece, the right to strike is recognized and guaranteed by the Constitution and by law 1264/1982 as a means for the safeguard and promotion of the rights of the employees of financial, insurance and employment nature in general. The Constitution also provides for exemptions (i.e. judges must refrain from any form of strikes) and restrictions on the right to strike (i.e. professionals engaged in undertakings of the public sector or in public utility services, whose operation is vital for the service of essential needs of the social community).

Who is entitled to call in strikes? Is there a procedure that has to be followed?

The right to strike is exercised by the legally established trade unions following a) a resolution by the competent to call in strikes body of the most representative trade union in the company, namely, the Board of Directors of the second and third grade trade unions and the General Assembly of the first grade unions, b) prior notification to the Employer, 24 hours in advance that they intend to go on strike, c) disposal of the necessary "minimum service" during the strike period for the safety of the premises of the undertaking and the prevention of accidents and destructions, which services are provided under the Employer's instructions. The security staff is determined through a special agreement made by the most representative trade union and the management of the undertaking, which must be deposited to the Ministry of Labour until the end of November and has one year duration. If the aforementioned conditions are met, then, the strike is legal.

Who can join the strike?

Any employee that is a member of the union that called in the strike, any employee of the service/branch or the undertaking that is not a member of the union that called in the strike as well as any employee that is not member of any union but the strike was called in by the most representative union in relation to their employment rights.

Is there a different treatment as regards employees engaged in the public and those engaged in the private sector?

Before calling in strikes, the civil servants must notify the Employer 4 days prior to the strike about their requests, by a written document serviced by bailiff to the Employer, the supervising Ministry and the Labour Ministry. The disposal of the necessary "minimum service" is also required for meeting the essential needs of the social community during strikes.

Can the Employer prevent employees from working as a means against strike?

No, lock-out is forbidden by the law.

What are the measures that employers take to mitigate the impact of a strike going on for an extended period of time?

The Employer can resort to Court by a petition and request that the strike is declared abusive. During the strike period the Employer cannot replace the existing employees who are on strike by hiring temporary or permanent personnel or strikebreakers.

C) TRADE UNIONS/LABOUR UNIONS

What is the role of Trade Unions?

To negotiate with the employers in order to conclude CEA. Their aim is to continuously safeguard and promote the labour, financial, social, insurance, and union interests of the employees.

How many trade unions are provided under the law?

The trade unions are ranked as first, second and third grade trade unions.
i) A first grade trade union may acquire the status of a) labour associations, b) local branches of trade unions of a broader area/region (whose members may be all over Greece), and c) legal entity (without legal personality). The criteria to join a labour association are either the profession or the undertaking itself or the branch of the undertaking's business activity, where the employee provides its services. In particular, the legal entity constitutes a special form of trade union, aiming at the facilitation of the trade unionism in the absence of an association which has as members half of the employees (40 people) and the constitution thereof is provided under the law under specific conditions: a) they do not have legal personality, b) their founding members must be at least ten, c) their founding act (memorandum of association is deposited at the secretary of the Court, d) only one legal entity can be established to each undertaking, provided that the total number of the employees engaged in the undertaking does not exceed 40 employees, e) its duration cannot exceed six months, f) it should expressly refer its objective which is to deal with any problem arising out of the relation between employer – employees.
ii) The second grade trade unions consist of a) Federations, which consist of at least 2 labour associations and b) Labour Centres, which consist of at least 2 labour associations or local branches and organise employees with the same profession.
iii) The third grade unions consist of a) Union of Federations and b) Union of Labour Centres.

Which is the significance of this distinction?

The organisational structure of the trade unions is linked to the kind of CEA that each union can conclude, and binds respectively its members.

Is there any restriction on the number of trade unions operating in the same undertaking, branch of business activity or profession?

No, it is possible that many trade unions operate simultaneously.

Are trade unions provided by law?

The existence and the operation of the trade unions is in detail governed by the law, i.e. as regards their financial resources, operation, administrative bodies and their function

and election procedure. The law also provides for specific rights for the facilitation of unionism / activity of their members.

D) EMPLOYMENT ARBITRATION

Who is entitled to resort to mediation/arbitration?

Only the party of the collective dispute that is entitled under the law to negotiate for the conclusion of CEA.

What is the subject matter of the mediation/arbitration?

Collective disputes arising from the procedure for the conclusion of the CEA. In particular, if collective bargaining fails, namely if the interested parties fail to reach an agreement and conclude Collective Employment Agreement, they are entitled to resort to mediation and / or arbitration.

Is there a specific procedure provided by the law to be followed?

The mediation/arbitration terms and procedure are provided either under clauses contained in the CEA, or by mutual agreement of the parties and in case such agreements do not exist, law provisions apply. The procedure briefly has as follows: Any of the interested parties, jointly or separately can file a petition before the competent authority (Mediation and Arbitration Organisation). The petition necessarily includes propositions, requests, alternative solutions and any other information which facilitates negotiations. The purpose of Mediation is to have the parties sit down with a neutral third party (Mediator), who is chosen through a list of mediators (and in case of incoherence they are chosen by lot) and who tries to facilitate a settlement to the dispute. For this reason, the Mediator, after having examined the formal preconditions i.e. if the parties have authority and competence to conclude an CEA, proceeds to individual examination of the parties, carries out investigation in relation to the employment terms and conditions and collects any information required in particular in relation to the financial situation, economic policy and personnel policy that the Employer is obliged to provide. If the parties do not reach an agreement within 20 days from the date that the Mediator has taken up his duties, the Mediator submits his proposal within certain time limit, which the parties either accept or reject within 5 days from the submission. In the first case, the proposal becomes CEA and is signed by the parties.

Can other trade unions intervene in the mediation procedure?

Yes, any trade union of the same undertaking, of the branch or of the profession that is competent to conclude the CEA under dispute can intervene.

Who is entitled to resort to arbitration and under what circumstances?

The interested parties can jointly address the dispute to arbitration at any stage of the negotiations. One party can unilaterally resort to arbitration only if a) the other party has denied to join mediation procedure and b) both parties have participated in mediation procedure.

What is the validity of the Arbitration Decision and what kind of issues does the decision determine?

The arbitration procedure is confined to the determination of the minimum wage (minimum hourly/monthly income necessary for a worker to meet basic needs) and the decision has the same validity as a CEA and is effective from the next day from the filing of the petition for mediation.

Give me a brief description of the procedure.

The arbitration is conducted by one or three arbitrators, the latter following request by any party in case of unilateral resort to arbitration. The arbitrator is chosen through a list of arbitrators (and in case of incoherence they are chosen by lot) and examines all the evidence collected by the mediator as well as the economic situation, etc. The decision is issued within 10 days from the assumption of the arbitrator's duties, if mediation has preceded, otherwise, within 30 days. It should be noted that for a period of 10 days from the resort to arbitration, the right to strike is suspended.

Is the Arbitration Decision final?

Any dispute arising out of or in connection with the validity of the decision can be challenged before the Courts through the special procedure of labour disputes, by a claim document filed by any party participating in the collective dispute, and the judgment is binding by all parties bound by the Arbitration decision. Short time limits are provided by the law for the hearing of the case and for the exercise of appeal.

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