



Reflections on the Greek
Jurisprudence, legal theory and the
recent legislative developments on
I&C

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Current Jurisprudence Status



- The application of information and consultation procedure is rare in Greece. The Work Councils are few and with less competence than the trade unions. Therefore, the jurisprudence is limited and fragmented.

Sanctions



- P.D. 240/2006 (art.8) refers to Law 2639/1998 (art. 16 replaced by Law 3996/2001) for the applicable administrative sanctions in case of infraction.
- Fine from 500 to 50.000 Euros
- Temporary or permanent pause of the employer's activity
- Various criteria are taken into account in order for the sanction to be defined such as the seriousness of the offence, repeated offences, level of negligence, the size of the corporation, the number of employees etc.
- Nevertheless, to our opinion, the most important sanction is, in case the I&C procedure is linked to termination of work contracts (collective redundancies, rotating work), that the dismissal may be proclaimed null and void.

Determining the requested information – Interim measures



- Decision No 4904/2008, Court of first Instance of Athens
- The case concerned requested, from the part of the employees, information on the transfer of a part of the partly public Greek Telecommunication Organization to a private investor. The Court held Passive subject of the relevant right (I&C) is only the employer (and not the Greek State as a shareholder). The Court, in its decision held that the suit (procedure of interim measures) brought in front of it was vague, due to the lack of reference to a specific subject for which information was requested. The Court decided that procedure of interim measures would not be applied in this case also because the exchange has already been realized.
- (This is problematic as it is naturally difficult to determine the information requested, due to lack of information.)

Rotating work – Short time work (1)



- Decision No 8606/2011, Court of first Instance of Athens (interim measures)
- A large part of the Greek I&C Jurisprudence concerns Rotating work. In order for this work system to be applied unilaterally by the employer, the procedure of information and consultation should be followed. As this is not respected, in some cases, by the employers, the work relation is often disturbed. In case this leads to termination of the work contract, the latter may be considered null and void. In this case the dismissal was proclaimed null and void and the employee was reinstated in his position.

Rotating work (2)



- Decision No 173/2013, Court of first Instance of Thebes
- Decision No 320/2014, Court of first Instance of Trikala
- In these cases examined, the employers (the second company had only 5 employees and decided to dismiss 3 of them) dismissed the employees, following an failed attempt to apply rotating work unilaterally. The dismissals were considered null and void.

Rotating work (3)



- Decision No 771/2017, Supreme Court (Areios Pagos)
- In this Decision, the Supreme Court held that the unilateral application of rotating work without informing and consulting with the representatives of the employees or all the employees, in case there is no union representing them, is null and void and constitutes unilateral harmful change of the work terms.

Current legislative developments



- Law 4488/2017 amended the provisions of PD 240/2006 which provide for the information and consultation of workers and employers on certain issues concerning industrial relations. To this end, the parties concerned shall determine, by agreement, the practical arrangements for informing and consulting employees. The provision stipulates that this agreement must be in writing or the process could be considered to be null and void. How this procedure is going to be applied and interpreted remains to be seen.

Legal theory, critics



- The critics point out that without the procedural safeguard of interim measures procedure, the right of information is, largely, diminished and its application non-effective. There are no signs from the jurisprudence towards that end. The lack of proportionate and dissuasive penalties has an impact on the effectiveness of the P.D. 240/2006 and the Directive.

CONCLUSIONS



- The Jurisprudence concerning I&C is still poor in Greece, because its application is limited. The Courts have been hesitant on obligating the employers to provide information. The critics point out that there is not effective application of the legislation. As mentioned before, there is no corporate culture for I&C from the part of the employers, but this is also a responsibility of the trade unions.

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