Introduction

Greece has formally exited its 3rd and last bailout program after having gone through hundreds of structural reforms, a major transformation of its labor market and labor law regime, and harsh societal consequences to adjust to the debt crisis. Nevertheless, most of the austerity measures are still in force and developments in that regard are still unclear. In fact, despite the reforms, no significant signs of progress towards the intended economic goals of “fighting unemployment and restoring competitiveness”[1] have been noted so far in Greece, as unemployment stands at the very high rates of 18.6% and at 36.6% for the young,[2] GDP growth remains subdued and fragile,[3] and the public debt still stands at the outstanding 176.1% of GDP.[4] It is important to note that in that regard, the third Greek MoU formally reached its end on the 20th of August 2018.[5] However, as announced by Eurogroup[6] and the European Commission,[7] Greece has now entered a post-Memorandum Enhanced Surveillance Procedure[8] that is considered even stricter than that of other countries that have exited similar programs.[9] In that context, there is a governmental commitment to continue structural reforms in certain areas including the labor market, and to keep untouched and not reverse the reforms that have been implemented with the previous memoranda—at least until 2022 (principle of irreversibility).[10]

This study goes back to the events that marked the Greek labor law regime during the crisis by reviewing the rich academic literature on the topic aims to shed light at the rather complicated issue of the implications of austerity on labor law, and to stimulate a further debate on future postcrisis prospects. In particular, it briefly examines the precrisis Greek labor market and labor law regime, identifies the main individual and collective labor law reforms undertaken to address the crisis, and concludes with critical remarks.

I. The Precrisis Labor Market and Labor Law Regime in Greece
In order to understand the content and the significance of the labor law reforms that were implemented during the crisis in Greece, analyzed in the next sub-chapter, it is important to show initially a general image of Greece’s precrisis labor market and labor law regime. Greece’s labor market and institutional arrangements before the crisis (since 1990) were similar to other south-European countries such as Italy, Spain, and Portugal, which were showing high self-employment and informal work rates, low part-time/flexible work and unemployment rates among prime-age and older workers, and pronounced labor market segmentation along various lines. The national system of industrial relations was centralized and highly characterized by a conflict between industrial relations and social movements (which, nevertheless, declined due to the EU integration), lack of social dialogue, and by state intervention in wage and labor standards setting as well as high employment protection (constitutional and legislative), but weak enforcement of legal mechanisms.

An important piece of labor legislation before the crisis was Law 1876/1990, which set the general framework for collective bargaining and industrial relations, rendering them stable but increasingly decentralized and involving a complex interaction between different sources of labor rights. Its aim was to limit the state’s intervention by promoting the constitutionally protected collective autonomy of social partners through a multilevel system of collective agreements between them, each with different applicability. As a result, the social partners and not the state were responsible for setting the working conditions and the minimum wage laid down in the national general collective agreement and applied throughout Greece to all persons (in the private sector), whether they were trade union members or not. In addition, employers and employees could improve those standards with agreements at occupational or sectoral level, which also could be made compulsorily applicable to all workers by the Minister of Labor under certain conditions. Crucial in that context was also the principle of favorability (Günstigkeitsprinzip or principe de faveur), according to which any provision more favorable to the worker included in a collective agreement prevails over conflicting legislative provisions and any more favorable provision set in an individual contract prevails over one set in a collective agreement. What is more, a lower level collective agreement could prevail over a higher one if it entails more favorable provisions. Finally, there was a possibility under specific conditions of extending the
application of collective agreements also to nonsignatories companies by the Minister of Labor even after their expiration. It was also possible to have unilateral recourse to mediation-arbitration resulting in a private law act fully equivalent to a collective agreement in case of an industrial conflict concerning any issue that could be regulated in a collective agreement.

II. Labor Law Reforms During the Crisis

The main statutes that implemented the three MoUs in the Greek legal order and bring changes to the existing labor law regime are the following: ss regards the first MoU, acts 3845/2010, 3846/2010, 3863/2010, 3899/2010, 3985/2011, 3986/2011, and 4024/2011 were adopted by the Greek Parliament. As regards the second MoU, acts 4046/2012 and Cabinet Decision 6/28.2.2012, 4093/2012, and 4111/2013 were adopted, and finally as regards the third MoU, acts 4334/2015, 4335/2015, 4336/2015 and 4472/2017 were adopted. It is important to note that in that regard, the labor market reform provisions laid down in the three Greek MoUs are so significantly detailed that the framework laws seem to translate them automatically into domestic statutory provisions[16] by qualifying them as “absolute rules of direct application.”[17] In the pages that follow, the primary—and most important for the purposes of this study—Greek labor law reforms will be briefly presented.

III. Individual Labor Law

These abovementioned statutes outline the direction of the reforms regarding individual labor law with changes made to a wide variety of areas. Primarily, dismissals were facilitated by drastically reducing the notification period and consequently severance pay up to 50%,[18] and increasing the necessary thresholds also facilitated collective redundancies. Subsequently, flexible forms of employment were fostered e.g. by increasing the maximum duration of fixed-term contracts from 12 to 36 months including renewals,[19] or by the vast use of the unilaterally imposed work rotation[20] and of a 12-month fixed-term employment contract that was a result of the increase from 2 to 12 months of the probationary period of a contract, under which dismissal is allowed without previous notice or severance pay.[21] In addition, new possibilities for determining working time arrangements were created and decreases in overtime work remuneration were established.[22] It also should be noted, that considerable emphasis was given to changes regarding lower remuneration and minimum monthly and
daily wage levels of young people between 15-24 years of age\[23\] by, for example, excluding them from the scope of the national collective agreement and generally binding provisions concerning minimum wage and working conditions.\[24\] Finally, the national minimum wage, as well as the monthly salaries of all public-sector employees was reduced, including premiums and bonuses,\[25\] while job positions in the public sector were abolished or suppressed.\[26\]

IV. Collective Labor Law

As regards collective labor law, all the provisions of act 1876/1990 discussed above were found to be deficient for fulfilling the economic purposes of the MoUs. The aim of the first MoU’s measures was to create a more flexible (but still strong) collective bargaining system and to transfer the wage setting closer to company-level. However, that changed significantly after the adoption of the second MoU, which totally altered the policy direction by imposing an immediate realignment of the (significantly reduced\[27\]) minimum wage level through statutory law\[28\] (and later through Decision of the Ministry of Labor with the consent of the Cabinet Council\[29\]) resulting in strong debate in academia and among the social partners considering the constitutional protection of collective autonomy\[30\] (discussed in the previous sub-chapter). More specifically, the conclusion of company-level collective agreements was stipulated by being given priority over sectoral ones even if they contain clauses less favorable to the employees and by suspending the possibility of extending sectoral and occupational agreements. Thus, the principle of favorability in case of conflicting provisions of sectoral and company-level collective agreements was abandoned.\[31\] In addition, company level agreements were also facilitated when the number of employees is less than ten. Another important development was the establishment of “associations of persons,” an ad hoc collective representation body alternative to the trade union. It was given the right to bargain working conditions and conclude company-level collective agreements with the employer containing clauses that may deviate from the applicable sectoral agreement, even in a less favorable way, as long as the body represents three fifths of the company staff and there is no trade union legally capable to bargain such an agreement.\[32\] As regards the previously discussed existing possibility of administratively extending sectoral and occupational collective agreements to nonsignatory companies, that was suspended, resulting in employers leaving the organization in which they were affiliated with and thus opting out
from the binding effect of the sectoral agreement since only the members of the signatory organizations are bound by it unless extended.[33] Additionally, unilateral recourse to mediation-arbitration was eliminated and was replaced by the need for the consent of both parties, while drastic restrictions were set at the scope of the procedure,[34] (only as regards basic monthly or daily wage) including economic and financial considerations. Finally, with the adoption of the third Memorandum, any return to the previous system of act 1976/1990 was legislatively excluded and any new legislative initiative of the government must abide by the “best EU practices”[35] and the creditors’ agreement.[36]

V. Concluding remarks

These significant developments in labor law and industrial relations in Greece have been described to be “unique and exceptional”[37] among Europe, although at the same time they have been deemed also an aspect of Europeanization of labor markets and wage setting institutions and procedures[38] through the implementation of Economic Adjustment Programs (included in Council Decisions on the basis of article 126 TFEU) that promote the transfer of decision-making on labor law from the national to the supranational level.[39] However, the EU lacks the exclusive competence to have an impact on Member states’ labor law systems[40] and specifically on areas of wage and pay levels and setting, trade union rights, collective bargaining, and the right to strike.[41] In addition, serious doubts have been raised in academia also about the feasibility of such a policy direction considering the different labor traditions and systems of EU countries and the constant internal devaluation (wage reductions and high wage flexibility). The latter has been used as an alternative to currency devaluation (reduction of value of exchange rate),[42] which is not a choice for Eurozone countries due to their participation in the EU’s Economic and Monetary Union. Against that background, austerity-based labor law reforms in Greece seem to be driven more by ideology than pragmatism with emphasis being given more to flexibility than security,[43] which is unlikely to restore the competitiveness of the Greek economy since it disregards the specificities and path-dependencies of the Greek model resulting in a dysfunctional liberal market economy.[44]

To sum up, the steps taken initially before the full onset of the crisis seemed to be consistent with the protective function of labor law,[45] however the situation changed dramatically,
leading to a transformation of Greek individual and collective labor law as the crisis was expanding and to a new labor law paradigm in line with the new EU economic governance. Specifically, the main principles and foundations of Greek labor law and its protective function were abandoned resulting in a neoliberal shift towards civil law—the law on contracts and in commodification of labor without collective constraints and in the employer’s favor, raising serious questions about the reforms’ conformity with supranational and national fundamental rights protection standards. Thus, it remains to be seen whether the recent postmemorandum policy actions and intentions of the Greek government such as the ministerial decision extending four sectoral collective labour agreements, the restoration of collective bargaining, and the potential increase of minimum wage will receive the appreciation of the Commission, and whether they will be accompanied by other measures sufficiently addressing the above-described situation and to what extent. In the meantime, the public debt remains high and the creditors’ pressing “recipe” of implementing austerity reforms still prevails in the EU.

* Nikolaos Papadopoulos is a PhD Candidate at the Department of International and European Law of Maastricht University: nikos.papadopoulos@maastrichtuniversity.nl

Notes


14. Collective autonomy is the right of workers’ and employers’ representative bodies to negotiate collectively, and to define jointly, the terms and conditions of employment, as well as to resort to arbitration in the event that negotiations fail. See article 22(2) of Greek Constitution which prohibits State intervention in the bargaining procedure and in the content of collective agreements and arbitration awards. 1975 Syntagma [Syn.] [Constitution] 22(2) (Greece).


21. See supra note 18 and 19.


nómou arith. 4046/2012 kai tis mesopróthesmis dimosionomikís stratigikís 2013-2016
[Law N°4093/2012 Approving the Medium-Term Fiscal Strategy 2013-2016 and
Introducing Emergency Measures Implementing Law N° 4046/2012 and the Medium-
Term Fiscal Strategy 2013-2016], Ephemeris tes Kyverneseos tes Hellenikes
Demokratías [E.K.E.D.], 2012, A:222 (Greece).

24. For a detailed analysis of the labour law reforms’ implications on young people see
Matina Yannakourou & Georgios Tsatiris, *Youth and Labour Law in the Context of

25. Nomos (2010: 3833) Prostasía Tis Ethnikís Oikonomías - Epeígota Métra Gia Tin
Antimetópsi Tis Dimosionomikís Krísis [Protection of the National Economy -
Emergency Measures to Tackle the Financial Crisis], Ephemeris tes Kyverneseos tes
Hellenikes Demokratías [E.K.E.D.], 2010, A:40 (Greece); Nomos (2010: 3845) Métra gia
tin efarmogi tou michanísmon stírís tis ellínikís oikonomías apó ta kráti-méli tis
Zóni tou evró kai diethné Nomismatikó Tameio [Measures for the
Implementation of the Support Mechanism of the Greek Economy by the Member
States of the Euro Area and the International Monetary Fund], Ephemeris tes
Kyverneseos tes Hellenikes Demokratías [E.K.E.D.], 2010, A:65 (Greece); Nomos (2011:
4024) Nómos Arith. 4024 Tou 2011 Schetiká Me Ta Thémata Syntáxeon Gíratos,
Enopoiménou Misthologikóu Systímatos - Sístima Taxinómisis, Apothematiká
Apaschólisis Kai Álles Diatáxeis Schetiká Me To Mesopróthesmo Plásio Tis
Dimosionomikís Stratigikís 2012-2015 [Law No. 4024 of 2011 Concerning Issues of
Retirement Pensions, of Unified Wage System - Grading System, Employment
Reserves and Other Provisions Concerning the Mid-Term Framework of Fiscal
Strategy 2012-2015], Ephemeris tes Kyverneseos tes Hellenikes
Demokratías [E.K.E.D.], 2011, A:226 (Greece).

26. *E.g.*, by the transfer of employees to other public-sector services or by the establishment
of “labour reserves.” See Costas Papadimitriou, *The Greek Labour Law Face to the
Crisis: A Dangerous Passage Towards a New Juridical Nature* 12-13 (Eur. Lab. L.

27. Nomos (2012: 4046) Énkrisi Ton Schediôn Symváseon Chrimatodotikís Diefkólýnsis
Metaxý Tou Evropaíkoú Tameióu Chrimatopistotikís Statherótitas (E.T.C.H.S.), Tis
Ellínikís Dimokratías Kai Tis Trápezas Tis Elládos, Tou Schedióu Tou Mnimoníou
Synennóisis Metaxý Tis Ellinikís Dimokratías, Tis Evropaïkís Epitropís Kai Tis Trápezas Tis Elládos Kai Álles Epeígouses Diatáxeis Gia Ti Meíosi Tou Dimosiou Chréous Kai Ti Diásosi Tis Ethnikís Oikonomíaς [Approval of the Draft Financing Facility Schemes between the European Financial Stability Facility (EFSF), the Hellenic Republic and the Bank of Greece, the Draft Memorandum of Understanding between the Hellenic Republic, the European Commission and the Bank of Greece and other Urgent Provisions to Reduce Public Debt and Rescue the National Economy], Ephemeris tes Kyverneseos tes Hellenikes Demokratias [E.K.E.D.], 2012, A:28 (Greece); Board of Ministers’ Act 6/2012.


32. Id.

33. Id.

34. Supra note 18; supra note 19.


38. Ioannou, supra note 12 at 221.


problematic since flexicurity is the central element of the EU Employment Strategy. For a critique of flexicurity during the crisis see Astrid Sanders, *The Changing Face of 'Flexicurity' in Times of Austerity? in Resocialising Europe in a Time of Crisis* (Nicola Countouris & Mark Freedland eds., 2013).


