THE EMPLOYMENT LAW REVIEW

Tenth Edition

Editor
Erika C Collins

THE LAWREVIEWS

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CONTENTS

PREFACE

For the past nine years, we have surveyed milestones and significant events in the international employment law space to update and publish *The Employment Law Review*. In updating the book this year, I reread the Preface that I wrote for the first edition in 2009. In that first edition, I noted that I believed that this type of book was long overdue because multinational corporations must understand and comply with the laws of the various jurisdictions in which they operate. I have been practising international employment law for more than 20 years, and I can say this holds especially true today, as the past 10 years have witnessed progressive shifts in the legal landscape in many jurisdictions. This tenth edition of *The Employment Law Review* is proof of the continuously growing importance of international employment law. It has given me great pride and pleasure to see this publication grow and develop to satisfy its initial purpose: to serve as a tool to help legal practitioners and human resources professionals identify issues that present challenges to their clients and companies. As the various editions of this book have highlighted, changes to the laws of many jurisdictions over the past several years emphasise why we continue to consolidate and review this text to provide readers with an up-to-date reference guide.

This year, we proudly introduce our newest general interest chapter, which focuses on the global implications of the #MeToo movement. The movement took a strong hold in the United States at the end of 2017, as it sought to empower victims of sexual harassment and assault to share their stories on social media in order to bring awareness to the prevalence of this issue in the workplace. In this new chapter, we look at the movement's success in other countries and analyse how different cultures and legal landscapes impact the success of the movement (or lack thereof) in a particular jurisdiction. To that end, this chapter analyses the responses to and effects of the #MeToo movement in several nations and concludes with advice to multinational employers.

Our chapter on cross-border M&A continues to track the variety of employment-related issues that arise during these transactions. After a brief decline following the global financial crisis, mergers and acquisitions remain active. This chapter, along with the relevant country-specific chapters, will aid practitioners and human resources professionals who conduct due diligence and provide other employment-related support in connection with cross-border corporate M&A deals.

Global diversity and inclusion initiatives remained a significant issue in 2018 in nations across the globe, and this is one of our general interest chapters. In 2018, many countries in Asia and Europe, as well as South America, enhanced their employment laws to embrace a more inclusive vision of equality. These countries enacted anti-discrimination and anti-harassment legislation as well as gender quotas and pay equity regulations to ensure that all employees, regardless of gender, sexual orientation or gender identity, among other

factors, are empowered and protected in the workplace. Unfortunately, there are still many countries where certain classes of individuals remain under-protected and under-represented in the workforce, and multinational companies still have many challenges with tracking and promoting their diversity and inclusion initiatives and training programmes.

We continue to include a chapter focused on social media and mobile device management policies. Mobile devices and social media have a prominent role in, and impact on, both employee recruitment efforts and the interplay between an employer's interest in protecting its business and an employee's right to privacy. Because companies continue to implement 'bring-your-own-device' programmes, this chapter emphasises the issues that multinational employers must contemplate prior to unveiling such a policy. Bring-your-own-device issues remain at the forefront of employment law as more and more jurisdictions pass, or consider passing, privacy legislation that places significant restrictions on the processing of employees' personal data. This chapter both addresses practice pointers that employers must bear in mind when monitoring employees' use of social media at work and provides advance planning processes to consider prior to making an employment decision based on information found on social media.

Our final general interest chapter discusses the interplay between religion and employment law. Religion has a significant status in societies throughout the world, and this chapter not only underscores how the workplace is affected by religious beliefs, but also examines how the legal environment has adapted to such beliefs. The chapter explores how several nations manage and integrate religion in the workplace, in particular by examining headscarf bans and religious discrimination.

In addition to these five general interest chapters, this edition of *The Employment Law Review* includes 45 country-specific chapters that detail the legal environment and developments of certain international jurisdictions. This edition has once again been the product of excellent collaboration, and I wish to thank our publisher. I also wish to thank all our contributors and my associate, Vanessa P Avello, for her invaluable efforts to bring this tenth edition to fruition.

Erika C Collins
Proskauer Rose LLP
New York
February 2019

Chapter 14

CYPRUS

George Z Georgiou and Anna Praxitelous[1]

I INTRODUCTION

In recent years, and in particular after the accession of Cyprus to the European Union, Cypriot employment law has rapidly evolved to comply with EU legislation (directives). Cypriot employment law implements the European principles of protection of the employee rather than providing absolute freedom to the employer. Overall, the legal framework, as reformed over a period of years, is a combination of principles from both the English and Greek legal systems, and offers a secure environment for both employees and employers.

The right to work is safeguarded by Article 25 of the Constitution of the Republic of Cyprus. The majority of employment-related matters, including the termination of employment and employees' and employers' rights and obligations, are mainly governed by the Termination of Employment Law of 1967, as amended, and the Annual Paid Leave Law of 1967, as amended. In addition, a number of other laws make up the legal labour framework in Cyprus, most notably: the Social Insurance Law of 2010; the Safety and Health at Work Law of 1996; the Protection of Maternity Law of 1997; the Minimum Salaries Law; the Equal Treatment at Work and Employment Law of 2004; and the Law Providing for the Preservation and Safeguard of the Rights of Employees on the Transfer of Businesses, Facilities or Sections of Businesses of 2000, all as amended. Each law is supplemented by relevant regulations and decrees. Cyprus has also ratified a number of International Labour Organization (ILO) conventions, which have become part of its national legislation, most notably Convention 158 of the ILO concerning Termination of Employment at the Initiative of the Employer, which introduced the right to a fair hearing into Cypriot law.

Another instrument, the Industrial Relations Code, was negotiated and signed by the government, employers and trade unions in 1977. It is a purely voluntary agreement, and any adherence to it depends on the goodwill of the parties. Nevertheless, its procedural part is of considerable importance in practice.

Collective labour agreements have contractual but not legislative force. They are concluded by sectors of industry and also at company level on a voluntary basis.

The primary mechanisms for enforcement are through the Ministry of Labour and Social Insurance, the Industrial Disputes Tribunal and in some cases the district courts.

The Annual Paid Leave Law of 1967, as amended, is the law that formed the Industrial Disputes Tribunal and granted exclusive jurisdiction to determine matters arising from the termination of employment, such as the payment of compensation, payment in lieu of notice,

1 George Z Georgiou is the managing partner and Anna Praxitelous is a lawyer at George Z Georgiou & Associates LLC.

compensation arising out of redundancy and any other claim for any payment arising out of the contract of employment. Where the amount claimed as damages exceeds the equivalent of two years' salary, jurisdiction is vested in the district court. The Industrial Disputes Tribunal is composed of the President of the Court, a judge and two lay members appointed on the recommendation of the employers' and employees' unions. The lay members have a purely consultative role.

The Ministry of Labour, Welfare and Social Insurance is the main state agency for the enforcement of labour and social policy, and its departments offer services for social protection, employment, industrial training, labour relations, terms and conditions of employment, and safety and health at the workplace. Its departments include Social Insurance, Social Welfare, the Department of Labour (Department for Social Inclusion of Persons with Disabilities), the Department of Labour Inspection and the Department of Labour Relations, as well as the Appropriate Authority for Retirement Funds.

II YEAR IN REVIEW

Cyprus continued to strive for economic growth in 2018.

In addition, there was a decrease in the annual number of labour disputes filed with the Industrial Disputes Tribunal.

No noticeable rises in salaries have been recorded; they remain at the same levels as the past year and the year before. The Redundancy Fund is still facing a huge number of applications, which means there will be an inevitable delay in dealing with them.

III SIGNIFICANT CASES

The Industrial Disputes Tribunal has recently made a number of judgments on the issue of redundancy and transfer of undertakings under the Law Providing for the Preservation and Safeguard of the Rights of Employees on the Transfer of Businesses, Facilities or Parts of Businesses (Law 104/(I)/2000), as amended, which harmonises EU Directive 2001/23/EC.

The Law applies to any transfer of undertaking or business or part of an undertaking or business from one employer to another as a result of a legal transfer or a merger. A transfer means the transfer of an economic entity that retains its identity as an identifiable grouping of resources pursuing an economic activity, regardless of whether that venture or activity is the main or an ancillary of the economic entity.

Case report

In the case *Nikos Nikolaou v. 1. G.A.P Akis Express Ltd 2. Redundancy Fund*, issued on 29 April 2016, the employee had been employed, since 2004, as a driver transporting correspondence and parcels, by G.A.P Akis Express Ltd (the Employer Company), a local courier company that is a subsidiary company of a logistics group of companies in Cyprus (the Group).

In 2011, the Employer Company informed the employee that its transport and distribution department would be transferred to G.A.P Vassilopoulos Express Logistic Ltd (Logistic), another subsidiary company of the Group, and asked him whether he wished to continue his employment with Logistic. The employee refused to be transferred to Logistic and remained with the Employer Company. Shortly after, the Employer Company served a notice of termination to the employee stating that redundancy had arisen owing to reorganisation

of the business. The employee brought proceedings before the Industrial Disputes Tribunal, claiming damages for unlawful dismissal or compensation by the Redundancy Fund in case his dismissal was found to be because of redundancy.

In its defence, the Employer Company argued that the transport and distribution department, in which the employee was employed as a driver, was taken over by Logistic and therefore the employee was dismissed because of redundancy. The Redundancy Fund, on the other hand, argued that redundancy did not occur as the transport and distribution department of the Employer Company was wholly transferred to Logistic, which carried on its operation.

In considering whether the employee's dismissal could be attributed to redundancy, the Tribunal found that the law providing for the Preservation and Safeguard of the Rights of Employees on the Transfer of Business, Facilities or Parts of Businesses (Law 104/(I)/2000), which implements EU Directive 2001/23/EC into Cypriot national law, was applicable.

The Tribunal observed that the Employer Company's transport and distribution department was an organised and autonomous entity that was transferred to Logistic together with its vehicles and a substantial number of its employees, continuing, therefore, to operate and hold its identity even after its transfer. Based on this reasoning, and owing to insufficient evidence as to any economic, technical or organisational alterations being carried out to the Employer Company, the Tribunal held that no redundancy grounds arose to justify the employee's dismissal.

The Tribunal noted that according to Law 104/(I)/2000, upon the transfer of a business, the transferor is released from its employer obligations, which are transferred to and undertaken by the transferee irrespective of the employee's wishes, and any dismissal served by the transferor is taken over by the transferee. With regard to this, the Tribunal held that the employee should have pursued his claim for unfair dismissal against Logistic and not against the Employer Company, and dismissed the employee's claim.

IV BASICS OF ENTERING AN EMPLOYMENT RELATIONSHIP

i Employment relationship

In Cyprus, although written employment contracts are not required, the Law[2] imposes an obligation on the employer to provide to the employee, in writing, specific information regarding the terms of employment. Such information must include:

a the identity of the parties;
b the place of work and the registered address of the business;
c the position or the specialisation of the employee;
d the commencement date of the contract and its duration, if it is for a fixed period;
e notice periods;
f annual leave entitlement;
g all the payments (salary, bonuses, etc.) to which the employee may be entitled and the time schedule for their payment;
h the usual duration of daily or weekly employment; and
i the application of any collective agreements.

2 Law Providing for an Employer's Obligation to Inform Employees of the Conditions Applicable to the Contract or Employment Relationship (Law 100(1)/2000), as amended.

The only valid reasons for dismissal are exhaustively prescribed by the Termination of Employment Law, as amended. There is no requirement for employment contracts to contain termination provisions unless they are contracts of fixed-term duration. In practice, most contracts of indefinite duration copy the provisions of Article 5 of the Termination of Employment Law, which states that the contract may be terminated for inadequate performance, non-performance of lawful instructions, criminal conduct not sanctioned by the employer, gross misconduct by the employee and redundancy reasons.

An employment contract may have a fixed-term or indefinite duration. Employment under a fixed-term contract is considered to be automatically terminated upon the expiration of the specific term. Nevertheless, according to Article 5(d) of the Termination of Employment Law, a termination is lawfully effected at the end of the fixed period unless the Industrial Disputes Tribunal determines that the contract was for an indefinite period. Successive renewals or extensions of a fixed-term contract, as well as an overall employment period exceeding 30 months, will invariably lead the court to a finding of a contract of indefinite duration.

Finally, there are no specific limitations in the Law regarding amendments to the employment relationship. However, any unilateral change in employment terms may give rise to a claim for constructive dismissal and, therefore, it is advisable that any major changes are agreed between the employer and employee.

ii Probationary periods

Pursuant to the Termination of Employment Law, as amended, there is a fixed probationary period of 26 weeks that can be extended up to a maximum of 104 weeks by written agreement at the commencement of employment. During the probationary period the employer may dismiss the employee without cause.

iii Establishing a presence

A foreign company cannot hire employees without being officially registered within the territory of Cyprus to satisfy social insurance and protection-of-employment considerations set out in the relevant law.[3] A foreign employer may operate through a local branch or register a local company. The requirements depend on the type of the economic activity that is to be performed. For financial services, licences from the Central Bank of Cyprus or the Cyprus Securities and Exchange Commission may be necessary. If a foreign company hires employees, taxes must be deducted at source and the employer is responsible for reporting and withholding.

V RESTRICTIVE COVENANTS

During an existing employment relationship, there is an implied duty of fidelity that is the basis for the existence of a contract of employment. It has long been recognised by the Cypriot courts that the employee should offer his or her services to his or her employer in a trustworthy and faithful manner. This obligation, which stems from the duty of trust and good faith that must exist in every employment relationship, requires the employee not to

3 Social Insurance Law 2010, as amended.

act in a manner directly and substantially prejudicial to his or her employer's interests, or generally in a manner that is capable of causing real or substantial harm to the employer's interests.

Under Cypriot employment law, strict and unreasonable covenants that compete, solicit or deal with customers after the employment ends are usually considered void, as it is considered that the employee is restrained from exercising a lawful profession, which conflicts with Article 25 of the Constitution.

If a clause is made within the limits of employment law and is reasonable in geographic and time scope, it may be enforceable.

An employer can protect confidential information through non-disclosure contracts. Employees have a continuing duty of good faith towards the confidentiality and protection of their employer's property. This duty survives the termination of employment for whatever reason. Therefore, unless anything to the contrary is provided in the employment contract, an employee (former or present) may not use the employer's intellectual property other than in the course of his or her business, or with the employer's express consent.

VI WAGES

i Working time

Generally, in Cyprus, the number of working hours for a five-day week should not exceed 48 hours per week, including overtime. However, in certain sectors (such as the hotel industry) different limitations may apply. Employees are generally entitled to a minimum of 11 continuous hours of rest per day, 24 continuous hours of rest per week and either two rest periods of 24 continuous hours each or a minimum of 48 continuous hours within every 14-day period.

Employees may opt out of the above rules as long as they freely consent. Managerial members of staff are also exempt from the statutory restrictions on hours worked.

Night workers should not, on average, exceed eight working hours per day within a period of one calendar month or within any other period specified in a collective agreement. Night workers whose work is hazardous or physically or mentally demanding should not exceed eight hours of night work in 24 hours.

ii Overtime

Overtime pay is generally not regulated by law in Cyprus and is usually a matter of private agreement between the employer and the employees. However, in certain industries in which working time is regulated by specific legislation and regulations, overtime payments may also be regulated accordingly. For example, employees in the hotel industry are entitled by law to receive overtime pay for work performed outside the prescribed daily working hours and on weekends and public holidays, at a rate of one-and-a-half times or double the normal pay.

Collective agreements may also regulate overtime pay. Public holidays must be taken into account regarding the payment of overtime, depending on whether there is a collective agreement or not. In the public sector (where there is a collective agreement) public holidays are considered overtime; in the private sector (if a collective agreement exists) employers may offer additional days off or, for highly paid management posts, the overtime paid may be considered part of the existing remuneration package.

Concerning the payment of overtime, it cannot be automatically considered that it is payable as employers may offer additional days off instead of overtime payments, although this is a matter of contractual agreement between the employer and the employee, and with reference to each specific sector and the collective agreements that govern each sector.

VII FOREIGN WORKERS

The terms and conditions of employment for all foreign nationals must be the same as those for Cypriot nationals and this is guaranteed by the model employment contracts provided by the Ministry of Labour and Social Insurance. Foreign workers working in Cyprus are protected by Cyprus employment law.

EU nationals may work in Cyprus freely without any restrictions. However, if an EU citizen intends to stay and take up employment he or she must apply for an alien registration certificate at the local immigration branch of the police and also apply for a registration certificate. Applications must be submitted at the local immigration branch of the police within four months of entering Cyprus. Moreover, EU nationals must apply for a social insurance number upon securing employment in Cyprus. The registration certificate is issued within approximately six months of the date of application. The employee may work while his or her application is being processed.

With regard to non-EU nationals, an employment and residence permit is required prior to employment. The granting of work permits for foreign workers is governed by the Aliens and Immigration Legislation, along with the decisions of the Council of Ministers and the Ministerial Committee. Working in Cyprus without a valid work permit is a serious criminal offence and may result in a fine or imprisonment for both the employer and employee.

There are a number of restrictions on obtaining work permits. Generally, the criteria for the approval of a work permit are the following:

a unavailability of suitably qualified local or EU personnel who satisfy the specific needs of the employers;

b preservation and better utilisation of the local or EU labour force;

c an improvement in working conditions at the workplace;

d terms and conditions of employment of foreign nationals should be the same as those of Cypriots or EU citizens; and

e in cases where work permits are recommended for the employment of foreign nationals with special skills and knowledge that Cypriots or EU nationals do not possess, the employer is obliged to name a Cypriot or EU national who will be trained during the period of the foreign national's employment.

The major categories of companies for which applications are examined are local enterprises and local companies with foreign investment.

All non-EU nationals are required to apply for an entry and residence permit before travelling to Cyprus if they intend to reside or work in Cyprus. The competent authority for granting entry permits and temporary or permanent residence permits is the Civil Registry and Migration Department of the Ministry of Interior.

Any person who resides in Cyprus for more than 183 days a year must pay tax in Cyprus on their worldwide income. Pension payments and tax liabilities depend, to a great extent, on the individual arrangements made by the person as well as any double taxation treaties that may exist between Cyprus and the originating country.

An employer is required to pay contributions to the funds (social insurance, annual holidays with pay, redundancy, industrial training and social cohesion) for each of their employees, if the employee is paid a salary.

VIII GLOBAL POLICIES

In Cyprus, internal discipline rules are generally not required, with the exception of governmental and semi-governmental bodies for which such rules are usually made into subsidiary legislation.

There is no obligation for the employees to approve or agree to the aforementioned rules unless they have a retrospective effect or change the fundamental basic terms of employment. Moreover, such rules do not have to be filed with or approved by governmental authorities with the exception of rules applying to governmental or semi-governmental bodies, which are generally approved by the House of Representatives.

If internal discipline rules exist, they must be written in a language that the person who is involved can understand. There is no legal obligation for such rules to be signed by the employees. A simple notification of where the rules can be found is considered sufficient.

Finally, internal discipline rules may be incorporated into the employment contract.

As regards mandatory rules concerning discrimination, Article 28 of the Constitution contains a general anti-discrimination provision that corresponds to a number of international conventions that Cyprus has ratified. Age, disability and sexual orientation are not covered by the Constitution, but are covered by the specific legislation outlined below.

In 2004, four separate anti-discrimination laws came into force implementing the two anti-discrimination EU Directives (2000/78/EC and 2000/43/EC):

a Law 57(I)/2004 amending the existing Disability Law;
b Law 58(I)/2004 on Equal Treatment in Employment and Occupation;
c Law 59(I)/2004 on Equal Treatment (Racial or Ethnic Origin); and
d Law 42(I)/2004 appointing the Ombudsman as the Equality Body.

Law 58(I)/2004 on the Equal Treatment in Employment and Occupation Law, as amended, applies to all natural and legal persons in both the private and public sectors. The sanctions that courts can impose against physical persons found to be guilty of discrimination cannot exceed €6,835.27 or imprisonment for up to six months, or both. For legal persons the maximum penalty is €11,960.21.

The provisions prohibiting discrimination on the grounds of age are included in the Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law 42(I)/2004, as amended, the Equal Treatment in Employment and Occupation Law 58(I)/2004, as amended, and Law 57(I)/2004 amending the existing Disability Law.

IX TRANSLATION

Employment contracts or other documents can be written in any language that is understandable to both parties or, if the contract or document is written in a language other than the employee's native language or in a language that the employee does not understand, the provisions of the contract or document have to be orally explained to the employee.

It is generally recommended that the employer obtains the confirmation of an independent professional (e.g., a lawyer) that the terms of the contract have been appropriately

explained to the employee. Moreover, it is recommended that the employer provide the employee with an appropriately translated copy of the employment contract, the employees' handbook, any confidentiality agreements or restrictive covenant agreements and any other document or policy containing essential terms and conditions of employment or plans. Although a certified translation is not necessary, it is advisable.

In the event that any of the above-mentioned documents have not been appropriately translated or are not in a language comprehensible to the employee, the terms may not bind the two parties, as interpreted under Cypriot contract law, and, in some cases, may not be enforceable in court.

X EMPLOYEE REPRESENTATION

Workplace representation in Cyprus is carried out mainly through trade unions. According to the Constitution[4] employees have the right to join any union of their choice and even incorporate their own union with a view to protecting their collective rights. There are no employees who, by law, must be represented by one or more trade unions. In practice, workers are either 'recruited' by union officials or apply to join unions.

Union workplace committees are elected by employees in companies with more than 10 employees, in order to deal with issues such as health and safety, work organisation, discipline and the implementation of the collective agreement. The committee also provides a link to the union structures, encouraging employees to join the union and getting support and advice from full-time union officials when necessary.

Matters pertaining to collective bargaining, collective agreements and the settlement of disputes are regulated by the Labour Relations Code. According to the Labour Relations Code, in the event of a large-scale redundancy the employer should notify the union as soon as possible and begin consultations. In companies where collective bargaining is carried out at the company level, the workplace committee may be involved in this, although more often a full-time government official will play the key role.

The right to consultation and information of the local union committees has been strengthened by the Law 78(I)/2005 Establishing a General Framework for Informing and Consulting Employees, implementing EU Directive 2002/14/EC on information and consultation, which requires management and the existing employee representatives in the workplace (the unions) to negotiate the appropriate practical arrangements for informing and consulting employees in undertakings that employ at least 30 employees.

Trade union representatives at the workplace are elected by a meeting of the members. The number of representatives elected depends on the union and the circumstances involved. Typically, the term of office is one year.

There are specific legal protections against the dismissal of workplace trade union representatives. Discrimination on the grounds of trade union activity is unlawful. Trade union representatives have general rights to enable them to carry out their duties and in larger workplaces the union will have access to a room and limited time off. In the banks and some public utilities, the main trade union representative is completely released from normal duties.

4 Article 21 of the Constitution.

XI DATA PROTECTION

General framework

The General Data Protection Regulation (GDPR) came into force on 25 May 2018. Under the GDPR, both employers and their employees have new responsibilities to consider to help ensure compliance with the GDPR principles.

Irrespective of the GDPR's direct effect, EU Member States were given power to legislate domestically in a few areas, one of which is employment. On 31 July 2018, new data protection legislation was enacted replacing the previous data protection legislation. The new law implements a number of provisions of the GDPR but it does not specifically deal with employee data and privacy. Employers must comply with all the principles that apply to the processing of personal data, including the principle of accountability. Accordingly, employees, as data subjects, enjoy enhance data protection rights as set out in the GDPR.

The Data Commissioner Authority stated that any guidance and directives issued by the Cyprus Data Protection Commissioner under the previous legislation remains in force until such is expired or replaced. Therefore, the recommendation issued by the Data Commissioner in 2005 that deals with personal data processing in the field of employment is still relevant for specific data protection issues that arise in the field of employment.

XII DISCONTINUING EMPLOYMENT

i Dismissal

In Cyprus, dismissals that are not justified under any of the grounds presented below are considered unlawful and give the employee a right to compensation:[5]

a unsatisfactory performance (excluding temporary incapacitation owing to illness, injury and childbirth);

b redundancy;

c *force majeure*, acts of war, civil commotion or acts of God;

d termination at the end of a fixed period or termination when the employee reaches the normal retirement age in accordance with custom, law, collective agreement, contract, employment rules or otherwise;

e conduct rendering the employee subject to summary dismissal; and

f conduct making it clear that the relationship between the employer and employee cannot reasonably be expected to continue, commission of a serious disciplinary or criminal offence, indecent behaviour or repeated violation, or ignorance of employment rules.

Some categories of employees enjoy increased protection from dismissal. The increased protection applies to employees who participate in trade union-related activities, pregnant women and employees on sick leave.

5 Termination of Employment Law of 1967, as amended.

Employees are generally protected from dismissal for any reason that does not justify dismissal under the law. An employer may never terminate employment for the following reasons:[6]

a membership of trade unions or a safety committee established under the Safety at Work Law of 1988;

b activity as an employees' representative;

c the filing in good faith of a complaint, or the participation in proceedings, against an employer involving alleged violation of laws or regulations, civil or criminal;

d race, colour, sex, marital status, religion, political opinion, national extraction or social origin;

e pregnancy or maternity; or

f parental leave or leave on the grounds of *force majeure*.

An employer is obliged to inform the Ministry of Labour regarding redundancies, but not for dismissals. The employer is also obliged to rehire redundant employees if a position becomes available up to eight months following the redundancy. More stringent notification requirements apply for collective redundancies or where a works council is established.

The most common remedy available for unlawful dismissal is damages, which in the Industrial Disputes Tribunal cannot exceed two years' wages. With regard to the remedies established by the law in Cyprus concerning unlawful dismissals, the only effective mechanism is statutory and contractual compensation, which is often insufficient. The remedy of reinstatement is theoretically available against employers employing over 19 people, but it is very rarely ordered by Cypriot courts.

The notice period for dismissals correlates to the length of service of an employee in continuous employment and must be in writing.

Length of service	Notice period
More than 26 weeks but less than 52 weeks	1 week
More than 52 weeks but less than 104 weeks	2 weeks
More than 104 weeks but less than 156 weeks	4 weeks
More than 156 weeks but less than 208 weeks	5 weeks
More than 208 weeks but less than 260 weeks	6 weeks
More than 260 weeks but less than 312 weeks	7 weeks
312 weeks or more	8 weeks

No notification is required to be given to an employee on probation (provided that the trial period does not last longer than 104 weeks).

By amendment of the Termination of Employment Law on 25 July 2016, giving notice to an employee who is absent from work owing to incapacity for work for a period of up to 12 months is prohibited for a period that is equal to the period of absence plus one-quarter.

Furthermore, the employer has the right to pay in lieu of notice, for which the sum paid is equivalent to the applicable notice period, but there is no obligation for any severance or

6 Termination of Employment Law of 1967, as amended, Article 6(2).

dismissal indemnity. Private settlement agreements between the employer and the employee can be concluded provided that such agreements do not violate the minimum amounts set by the law.

Any provision in a contract or agreement providing for the reduction of the length of the statutory notice period is void *ab initio*, although the parties have the right to extend the notice period by contract, collective agreement or for any reason established by law, custom or otherwise.

ii Redundancies

Redundancy compensation is calculated according to Table 4 of the Termination of Employment Law. An employee who is made redundant as part of a collective redundancy plan under the Collective Redundancy Law of 2001 has the same termination payment rights as an employee who is individually made redundant under the legislation of 1967.

Redundancy payments are calculated according to years of employment as follows:

a two weeks' wages for each year of service up to four years;
b two-and-a-half weeks' wages for each year of service from five to 10 years;
c three weeks' wages for each year of service from 11 to 15 years;
d three-and-a-half weeks' wages for each year of service from 16 to 20 years; and
e four weeks' wages for each year of service beyond 20 years.

The upper limit for redundancy compensation is 75.5 weeks' wages. The minimum statutory compensation for unlawful dismissal payable by the employer is also calculated in the same way. Depending on the circumstances of each case, the court may award anything between the minimum (the redundancy amount) and the maximum (two years' wages), taking into account all the facts of the case. The court may, *inter alia*, consider the age, family situation, career prospects and circumstances of termination before deciding. In the event of redundancy, the payments are made from the government redundancy fund. The Redundancy Fund was established by the Termination of Employment Law.[7] It is a national fund to which employers pay contributions for the purpose of the payment of compensation upon redundancy. The Redundancy Fund is wholly financed by contributions from employers.

Collective dismissals under Cypriot law[8] are dismissals for one or more reasons not related to the employees, and where the number of employees dismissed within a 30-day period is:

a at least 10 employees, if the establishment employs more than 20 but fewer than 100 employees;
b at least 10 per cent of the workforce, in cases where the establishment employs at least 100 but fewer than 300 employees; or
c at least 30 employees, in cases where the establishment usually employs at least 300 employees.

An employer intending to implement a collective redundancy has a statutory obligation to notify and engage in consultations with the employees' representatives as soon as possible to reach a settlement agreement.

7 Termination of Employment Law of 1967, as amended.
8 Collective Redundancies Law of 2001 (Law 28 (I)/2001), as amended.

The employer must also give notice to the Minister of Labour, Welfare and Social Insurance of any proposed redundancy dismissal at least one month before the intended date of termination. Notice must be given on a standard form and include the following particulars:

a the reasons for any proposed collective dismissal;
b the number and the description of the employees it proposes to make redundant;
c the total number of employees and the description of employees normally employed at the establishment;
d the time period during which the proposed redundancies are to take place;
e the criteria for selecting the employees that are to be dismissed; and
f the calculation method of any redundancy payment, other than the redundancy payments provided by the Termination of Employment Law.

If the number of dismissals is less than the number provided in the law, the Termination of Employment Law applies. As regards notice periods, the rules of the Termination of Employment Law, as amended, apply.

XIII TRANSFER OF BUSINESS

The Law Providing for the Preservation and Safeguard of the Rights of Employees on the Transfer of Business, Facilities or Sections of Businesses, Law 104(I)/2000, as amended, applies to the transfer of a business or part of one, plus any business facilities, as a result of a legal transfer or merger. The legislation covers both public and private businesses irrespective of whether or not they have profitable economic activities, and applies to employees and their representatives.

For the Law to apply, a business transfer must involve the transfer of an economic entity that retains its identity. The Law does not apply to:

a vessels and ships;
b transfers by share takeovers;
c transfers involving insolvent businesses; and
d reorganisation or redistribution of functions between public bodies.

Employees are not entitled to object to a transfer. Objecting to working for a new employer may constitute a material breach of the employment contract. If the working conditions or the contract of employment are changed to the employee's detriment (e.g., if the employee's duties radically change) this may be a breach of contract by the employer. Both the transferor and transferee must consult either the employees affected by the transfer or their representatives.

All rights and duties of the transferor stemming from the employment contract or work relationship as it exists at the date of the transfer must be transferred to the transferee. The transferee must retain the same terms that have been agreed upon in any collective agreement, in the same way as was done by the transferor, for the remainder of the term of the collective agreement and for at least one year after the transfer. The employees do not retain the rights that they had with the transferor regarding old age and disability benefits, or any rights to supplementary occupational retirement benefits except those provided by the Social Insurance Legislation (Section 4(3)(a)).

XIV OUTLOOK

Economic recovery in Cyprus means that employers and employees have reasons to be positive about 2019 as there are indications that development rates will increase and financial growth will continue.

Unions have started pressing for salary increases and the reinstatement of benefits, especially in the civil service and the banking sector. However, employers are still very cautious with regard to increasing salaries and are still trying to reduce costs.

A revamp of the state pension system is a hot topic, as is there is an increased need for second-pillar pension schemes.

Appendix 1

ABOUT THE AUTHORS

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George Z Georgiou & Associates LLC

George Z Georgiou is the managing partner of George Z Georgiou & Associates LLC. He is also an associate tenant of Littleton Chambers London. He studied law at the University of Bristol, UK and was called to the Bar of England and Wales by the Honourable Society of the Inner Temple. Upon his return to Cyprus, he was called to the Cyprus Bar and became a member of the Chartered Institute of Arbitrators. He is also a member of the Royal Institute of Chartered Surveyors, the Cyprus Arbitration and Mediation Centre, and the London Court of International Arbitration. George Z Georgiou is on the board of directors of the European Employment Lawyers Association and the board of national correspondents for the *European Employment Law Cases* journal. He practises in all fields of civil law and is considered an expert on Cypriot employment, pensions and corporate immigration law. He regularly lectures in English and Greek on these subjects. Finally, George Z Georgiou & Associates LLC is the sole Cypriot member of Ius Laboris – the Global Human Resources Lawyers Alliance and the Global Advertising Lawyers Alliance.

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