



European network of legal experts in gender equality and non-discrimination

FLASH REPORT

Country:	Greece
Title:	Urgent measures for family related leave due to COVID-19
Date:	26 March 2020
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<u>Context</u>	
Issue at stake:	Urgent measures for family related leave due to COVID-19
Grounds of discrimination:	Gender
Field of application:	Employment, Family leave
Source:	Act of Legislative Content 'Urgent measures in order to deal with the negative consequences of the appearance of corona virus COVID-19 and the need to restrict its diffusion' (OJ A 55/11.03.2020) (hereinafter ALC of 11 March 2020), as amended by Article 14(3) Act of Legislative Content 'Urgent measures in order to deal with the need to restrict the diffusion of corona virus COVID-19' (OJ A 64/14.03.2020) (hereinafter ALC OF 14.03.2020) and by Articles 38(4) and 41 of Act of Legislative Content 'Urgent measures in order to deal with the effects of the risk of diffusion of the corona virus COVID-19 etc.' (OJ A 68/20.03.2020) (hereinafter ALC of 20 March 2020); Circular DIDAD/F.69/108/OIK. 7874/12.3.2020 of the Ministry of Interior entitled 'Urgent measures for prevention and protection of the corona virus'; Circular 12339/404/12.03.2020 of the Ministry of Employment and Social Affairs entitled 'Urgent and provisional measures for dealing with the corona virus COVID-19 and for the restriction of its diffusion'.

Content

Law: ALC of 11 March 2020, as amended by Article 14(3) ALC of 14 March 2020 and Articles 38 and 41 ALC of 20 March 2020 and as interpreted by two Circulars issued on 12 March 2020,¹ provides, *inter alia*, for the following family related types of leave.

Key points of analysis:

Private sector

Article 4(2) ALC of 11 March 2020 provides that the employer can unilaterally decide that the work to be performed by the employees as defined by the employment contract, should be performed through teleworking.

¹ Circular DIDAD/F.69/108/OIK. 7874/12.3.2020 of the Ministry of Interior entitled 'Urgent measures for prevention and protection of the corona virus'; Circular 12339/404/12.03.2020 of the Ministry of Employment and Social Affairs entitled 'Urgent and provisional measures for dealing with the corona virus COVID-19 and for the restriction of its diffusion'.

As an alternative to this measure, Article 4(3) ALC of 11 March 2020 provides for a 'special purpose' leave for the following groups of employees: a) workers, who are parents of children who (i) attend nurseries and crèches, (ii) are students in compulsory education grades,² or (iii) are students in special education schools, irrespective of their age; b) workers, who are parents of disabled persons benefitting from open care structures for disabled persons, irrespective of their age. The above establishments have already been closed as part of the preventive measures taken to address the corona virus pandemic and limit its spread. For as long as the above establishments remain closed, workers falling under the above categories of parents are entitled to a 'special purpose' leave of at least three days. For every three days of the 'special purpose' leave, the worker makes use of one day of his/her annual leave. This leave can be taken up from 11 March 2020 to 10 April 2020. It covers salaried workers in the private sector, even if the other parent is self-employed.³ Only workers entitled to an annual leave of at least six days (in case of a six days' working week) or five days (in case of a five days' working week) are entitled to the special purpose leave. If this condition is not satisfied, the worker is entitled to the leave proportionally to the days of annual leave s/he is entitled to. Two thirds of the cost of the days of said leave are covered by the employer and one third thereof is covered by the State. An exception to this rule is provided for parents employed by public enterprises and entities (falling under chapter A of Act 3429/2005 OJ A 314/27.12.2005), for whom all three days of the special purpose leave are fully paid by the employer.⁴ The 'special purpose' leave can be extended beyond 10 April 2020 by joint ministerial decision, if need be, depending on the development of the pandemic. According to Article 14(1) of the ALC of 14 March 2020, the leave is granted upon a reasoned opinion of the administration to parents employed by enterprises in the field of energy (electric power, gas and fuel) and water supply and in enterprises which produce, transport and supply food, fuel, medicine and paramedical material to retail enterprises.

Public sector

Article 5(1) ALC of 11 March 2020 provides for a 'special purpose' leave for those employed by the State, Prefectures, local authorities of the first and second grade, legal persons governed by public law and legal persons governed by private law in the framework of the General Governance, under any employment relationship ('public servants etc.'), if they are parents of children who are: (a) registered in nurseries and crèches or (b) students up to the third grade of high school, the functioning of which has been suspended in the framework of preventive measures dealing with the corona virus and aiming to limit its spreading. The Circular dated 12 March 2020 provided that the leave is also granted to parents of children who attend special education establishments, irrespective of their age. The above employees are entitled to be absent from their job as long as the functioning of the above establishments is suspended. Article 38(4) of the ALC of 20 March 2020 expanded the personal scope to cover parents of children up to the age of four years who are not registered in nurseries and crèches as well. For every four days of absence, three days are considered by the competent service as justified absence due to the suspension of the functioning of the above establishments and are fully paid, and one day is considered as annual leave. In case the employee is absent for less than 4 days, these days are all considered as annual leave.⁵

² In Greece, the education is compulsory up to the third grade of high school, i.e. in normal conditions up to the age of 15 years.

³ The specific conditions of entitlement in the following cases are defined in detail in the ALC of 11 March 2020: 1) Where both parents are salaried workers; 2) where one parent is a salaried worker of the private sector and the other parent is a public servant; 3) where only one parent is employed; 4) in case of divorce or separation of the parents; and 5) in case of single parent families are.

⁴ Article 4(3) of ALC of 11 March 2020, as amended by Article 14(3) of ALC of 14 March 2020, as subsequently amended by 41 of ALC of 20 March 2020.

⁵ The specific conditions of entitlement in the following cases are defined in detail in the ALC of 11 March 2020: 1) Where both parents are public servants; 2) where one parent is employed in the public sector and the other in the private sector; 3) where the employee's spouse is employed in the public sector and at the same time is on any other leave (parental leave, maternity leave, sabbatical leave); 4) where the employee's spouse is not employed; 5) in case of divorce and 6) in case of single-parent families.

Article 4(4) ALC of 11 March 2020 provides that alternatively, public servants and employees who fall under any of the other groups mentioned above are entitled to a paid daily working time reduction of 25 %. After the above educational establishments begin to function again, s/he can work for the corresponding hours after the end of the ordinary working time without overtime payment; in this case the reduced working time will be considered as actual time of service. This obligation does not apply in case of expiration of a fixed-term contract. According to the Circular dated 12 March 2020, for as long as the functioning of the above establishments is suspended, the groups of employees mentioned above can modify the start and the end of their working time, if this is necessary for the care of their children.

Article 4(5) ALC of 11 March 2020 provides that in case of employees of the Ministry of Health, health establishments, the Ministry of Immigration and Asylum and its units, as well as military and police personnel, entitlement to the above measures is subject to a prior justified decision of the competent authority. In case both parents fall in the above categories, the competent authority decides who will make use of the above measures. According to Article 11 ALC of 14 March 2020, the same requirement applies to all employees of private clinics (including doctors and nurses).

Internet link source:

<https://www.in.gr/wp-content/uploads/2020/03/eqyklis-ypes-adeies.pdf>.

<https://www.taxheaven.gr/circulars/32531>.