



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

FLASH REPORT

Country:	Greece
Title:	Pregnancy and family related leave due to COVID-19
Date:	13 July 2020
Expert:	Panagiota Petroglou
<u>Context</u>	
Issue at stake:	Pregnancy and family related leaves (including accommodation of working hours) due to COVID-19
Grounds of discrimination:	Gender
Field of application:	Family leave, pregnancy and maternity
Source:	National legislation
Applicable law:	Article 34, 35 Act 4690/2020; Article 4(3) Act of Legislative Content (hereinafter ALC) of 11.03.2020, OJ A 55/11.03.2020, sanctioned by Article 2 Act 4682/2020, OJ A 76/03.04.2020 and relative joint ministerial decisions 14556/448/07.04.2020, OJ B 1208/07.04.2020, 16135/499/23.04.2020 OJ B 1566/24.04.2020, 17787/520/8.5.2020, OJ B 1778/10.05.2020, Circular 20477/604/27.05.2020 of the Ministry of Labour and Social Affairs and Circular ΔΙΑΔ/Φ.69/118/οικ. 11134/2020 of the Ministry of Interior; Circular 20477/604/27.05.2020 of the Ministry of Labour and Social Affairs; Joint ministerial decisions of the Ministers of Health and Interior Affairs ΔΙΑΔ/Φ.64 /341/9188/11.05.2020, OJ B 1800/11.05.-2020) and ΔΙΑΔ/Φ.64/346/9011/14.5.2020, OJ B 1856/15-05-2020

Content

The law: Due to the COVID-19 pandemic, the following measures regarding pregnancy and family related leaves (including accommodation of working hours) have been adopted in Greece:

1. Furlough allowance is extended to (originally excluded) mothers on maternity leave which expired within the period of the furlough (Article 34 Act 4690/2020)

In enterprises, the function of which has been suspended by order of the State due to COVID-19, employees on a legal leave, such as maternity leave, the 6-months special maternity leave¹ or sick leave were excluded from the furlough according to Article 13(5b) of the Act of Legislative Content (hereinafter ALC) of 14 March 2020, OJ A 64/14.03.2020.

¹ The 'special' paid maternity leave is provided for employees in the private sector for six months after the end of the maternity leave (Article 142 Act 3655/2008, OJ A 58/3.4.2008, as amended by Article 36 of Act 3996/2011, OJ 170/05.08.2011). It is independent from both maternity and parental leave. It is granted to women only, in addition to maternity leave and cannot be shared with the father.

For the first time, Article 34 Act 4690/2020, OJ A 104/30.05.2020 has provided that in case the said leave expired during the suspension of the function of the enterprise by order of the State, the employees returning from the leave are entitled to the furlough allowance from 1 May 2020 until the end of the suspension of the function of the enterprise. The allowance is calculated *pro rata* of the full furlough allowance (EUR 534 net for 30 calendar days) according to the number of days of furlough following the end of the leave. However, the period before 1 May 2020 has not been covered.

2. The 'special purpose' leave² is extended until the re-opening of the schools, and in some cases until the end of the school year

At the close down of school,³ a 'special purpose' paid 3-days leave was adopted to facilitate employees with children:⁴ for every three days of the 'special purpose' leave, the worker makes use of one day of his/her annual leave. As a rule, 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. This leave, originally provided for the period 11 March 2020 to 10 April 2020, was successively extended until 24 April 2020,⁵ again until 10 May 2020⁶ and finally until the reopening of the schools.⁷ ⁸ Exceptionally, in both the private⁹ and the public sector,¹⁰ the said leave was extended until the end of the school year¹¹ only for parents of children: (i) who are exempted from schooling because they belong to high risk groups for COVID-19 or come in close contact with family members who belong to such groups or have already been ill or (ii) who attend exclusively e-classes because their teacher belongs to a high risk group; in this case, alternatively the parent may perform telework upon the consent of the service and under the condition that this is feasible. If schooling is scheduled every second day (which is the norm for Greek schools as classes were divided in two rotating sections), parents can combine the 'special purpose' leave on a piecemeal basis for the days off-school with the accommodation of reduced daily working hours up to a 25 % (see under 3. below) for the days of school attendance. In the public sector, the 'special purpose' leave was also extended until the end of the school year of nurseries and crèches (31 July 2020) for parents of children who are exempted from schooling because they belong to high risk groups for the COVID-19 or come in close contact with family members who belong to such groups or have already been ill.¹²

3. Employees with children are entitled to reduced daily working hours up to a 25% upon agreement with the employer (Article 35 Act 4690/2020)

According to Article 35 Act 4690/2020, by exception to the set labour law provisions on working time limits, until the end of the school year 2019-2020: a) employees, who are parents of children who (i) attend nurseries and crèches, (ii) are students in compulsory

² See EELN flash report (Greece) of 26 March 2020 'Urgent measures for family related leave due to COVID-19', available at: <https://www.equalitylaw.eu/downloads/5100-greece-urgent-measures-for-family-related-leave-due-to-COVID-19-95-kb>.

³ All preschools, schools and universities closed down on 10 March 2020 (Joint Ministerial Decision Δ1α/ΓΠ.οικ. 16838/10.03.2020, OJ B 783/10.03.2020).

⁴ Article 4(3) Act of Legislative Content (hereinafter ALC) of 11.03.2020, OJ A 55/11.03.2020, sanctioned by Article 2 Act 4682/2020, OJ A 76/03.04.2020.

⁵ Joint Ministerial Decision of the Ministers of Finance, Labour and Social Affairs and Health 14556/448/07.04.2020, OJ B 1208/07.04.2020.

⁶ Joint Ministerial Decision of the Ministers of Finance, Labour and Social Affairs and Health 16135/499/23.04.2020 OJ B 1566/24.04.2020.

⁷ Joint Ministerial Decision 1 of the Ministers of Finance, Labour and Social Affairs and Health 7787/520/8.5.2020, OJ B 1778/10.05.2020.

⁸ High schools reopened on 18 May 2020 (except the last grade that reopened on 11 May 2020) and elementary schools, nurseries and crèches reopened on 1 June 2020.

⁹ Circular 20477/604/27.05.2020 of the Ministry of Labour and Social Affairs, available at: <https://www.ergasiaka-gr.net/wp-content/uploads/2020/05/eqk-20477-%CE%A8%CE%94%CE%97446%CE%9C%CE%A4%CE%9B%CE%9A-%CE%918%CE%A1.pdf>.

¹⁰ Circular ΔΙΑΔ/Φ.69/118/οικ. 11134/2020 of the Ministry of Interior, available at: <https://www.taxheaven.gr/circulars/33283>.

¹¹ The school year 2019-2020 for high school ended on 12 June 2020 whereas for the elementary school it will end on 26 June 2020.

¹² Article 16(3) joint ministerial decision Δ1α/ΓΠ.οικ. 36857/14.05.2020, OJ B 2277/14.06.2020.

education grades¹³ or (iii) attend special education schools, irrespective of their age; b) employees, who are parents of disabled persons benefitting from open care structures for disabled persons, irrespective of their age, following a petition and upon agreement with their employer, are entitled to reduced daily working hours up to 25 % without any pay reduction. In this case, they can be employed beyond their normal working hours on other working days to be agreed between the parties for the equivalent hours without any surplus of pay. This accommodation is provided irrespective of the use of the 'special purpose' leave and aims to facilitate working parents to collect their children from school given that after their close-down due to the COVID-19, for the period 1-25 June 2020 nurseries, crèches and elementary schools functioned only for the basic hours without the programme of 'all-day schooling'.

4. Alternatively, entitlement to the 4-days paid leave for school visits in order to collect children from school¹⁴

Alternatively, employees in the private sector can make use of the 4-days paid leave 'for school visits'¹⁵ on a piecemeal (hourly or daily) basis. According to the Ministry, this aims to facilitate parents to collect their children from school given that for the period 1-25 June 2020 nurseries, crèches and elementary schools function only for the basic hours without the programme of 'all-day schooling' whereas grandparents who often used to accompany children to school belong to high risk groups for COVID-19. This leave can be taken up by employees who are not entitled to the special purpose leave or who have exhausted their annual leave for the current year and consequently have lost entitlement to the special purpose leave.

5. Pregnant women in public sector entitled to a paid special leave

A paid leave provided¹⁶ for employees in the public sector (public servants, local authorities etc.) belonging to high risk groups for COVID-19 originally covered only cancer patients submitted to chemotherapy and those who have undergone a transplant. On 11 May 2020 this leave was extended to cover pregnant employees as well.^{17 18} This leave does not apply to employees of the private sector.

¹³ In Greece, the education is compulsory from the kindergarten to the third grade of high school, i.e. in normal conditions up to the age of 15 years.

¹⁴ Circular 20477/604/27.05.2020 of the Ministry of Labour and Social Affairs, available at: <https://www.pim.gr/index.php/ergatikamenu/ergatika-menu-egkapofasis/file/2053-27-5-2020-egkyklios-20477-604-diefkolynseis-goneon-sto-plaisio-epanaleitourgias-ton-sxoleion-kai-ton-vrefonipiakon-stathmon-odigies-gia-tin-efarmogi-tis-17787-520-8-5-2020-v-1778-xorigisis-adeias-eidikoy-skopoy-gia-tin-antimetopisi-tou-koronoioy-COVID-19->.

¹⁵ Article 9 Act 1483/1984, OJ A 153/08.10.1984, Article 4 National General Collective Agreement 2008-2009 and Article 20(5) Act 3896/2010, OJ A 207/08.12.2010. The leave 'for school visits' is four working days per calendar year for each child up to 16 years attending compulsory education. Entitled thereto are (both full-time and part-time) employees in order to get informed on the child's school performance.

¹⁶ Article 25 ALC of 14 March 2020, OJ A 64/14.03.2020, sanctioned by Article 3 Act 4682/2020, OJ A 76/03.04.2020.

¹⁷ Joint ministerial decision of the Ministers of Health and Interior Affairs ΔΙΑΔ/Φ.64 /341/9188/11.05.2020, OJ B 1800/11.05.-2020).

¹⁸ Joint ministerial decision of the Ministers of Health and Interior Affairs ΔΙΑΔ/Φ.64/346/9011/14.5.2020, OJ B 1856/15-05-2020.