




Platis - Anastassiadis & Associates

The associate law firm of EY Greece



Activation of a Digital Work Card in Industry and Retail, New criteria for Managers and Modification of digital information procedures in ERGANI II

Ministerial Decree [113169/28.12.2023] is published (Government Gazette [B 7421/2023]) and provides as of 01.01.2024 the inclusion of the Industry and Retail sector in the process of the Digital Work Card System (Part A), modifies the criteria based on which an employee is considered that holds a supervisory position and is therefore excluded from the work time limits (Part B), and finally modifies the digitally submitted declarations in PS ERGANI II (Part C). Particularly:

A. Inclusion of Heavy Industry and Retail Sector in the process of the Digital Work Card System as of 01.01.2024.

As of January 1, 2024, businesses belonging to the industry sector (all business IDs with the first two digits from 10 to 33, except 19) are included in the digital work card system, as well as

businesses belonging to retail main activity [all business IDs with the first two digits 47 (table follows)].

Operations included in the Digital Work Card System

ID Sector for the Use of Digital Work Card as of 01.01.2024

*with a number of employees exceeding 10

ID	DESCRIPTION	SECTOR
10	Food Industry	INDUSTRY
11	Distillery	INDUSTRY
12	Production of tobacco products	INDUSTRY
13	Production of textiles	INDUSTRY
14	Manufacture of clothing	INDUSTRY
15	Industry of leather and leather goods	INDUSTRY
16	Manufacture of wood and manufacture of wood and cork products, except furniture, manufacture of basketry and wickerwork	INDUSTRY
17	Paper mill and manufacture of paper products	INDUSTRY
18	Prints and plays pre-recorded media	INDUSTRY
20	Production of chemicals and products	INDUSTRY
21	Production of basic pharmaceutical products and pharmaceutical preparations	INDUSTRY
22	Manufacture of rubber and plastic products	INDUSTRY
23	Production of other non-metallic mineral products	INDUSTRY
24	Production of base metals	INDUSTRY
25	Manufacture of metal products, excluding machinery and equipment	INDUSTRY
26	Manufacturing of computers, electronic and optical products	INDUSTRY
27	Electrical equipment manufacturing	INDUSTRY
28	Manufacture of machinery and equipment	INDUSTRY
29	Manufacture of motor vehicles, trailers and semi-trailers	INDUSTRY
30	Manufacture of other transport equipment	INDUSTRY
31	Furniture construction	INDUSTRY
32	Other manufacturing activities	INDUSTRY
33	Repair and installation of machinery and equipment	INDUSTRY
47	Retail trade, except trade in motor vehicles and motorcycles	RETAIL

A particularly important provision is that companies operating in the energy, petroleum and mining sectors are excluded from the digital work card system.

It is further provided that any administrative penalties for non-compliance for businesses belonging to the Industry sector shall be imposed from 1 April 2024 onwards, for businesses belonging to the retail sector shall be imposed from 2 May 2024 onwards. In any case sanctions shall be imposed on businesses (both industrial and retail) with less 10 employees' headcount from 13 May 2024 onwards.

B. Redefining criteria under which a person is considered to be in a supervision position and therefore exempt from work time limits.

The criteria under which a person is considered to be in a supervision position and therefore exempt from work time limits are redefined and mainly the salary threshold are being reduced and in particular, employees that:

1. exercise managerial authority over other company employees or are persons authorized to make decisions autonomously, or ii. represent and bind the company to third parties, or iii. are members of the board of directors or a corresponding administrative body of the employer or iv. are shareholders or partners holding more than 0.5% of the voting rights of the employer's business

2. head directorates, units or departments or other independent organic units of the employing company specified in its organizational chart, as long as the employing company entrusts them with the supervision of part of its continuous, intermittent or extraordinary, but nevertheless essential operation and these employees **are paid with agreed monthly earnings that do not fall short of four times the current national minimum wage (currently €3.120),**
3. are paid with agreed monthly salaries that do not fall short of six times the current national minimum statutory salary (currently €4.680).

In any case, the declaration in the ERGANI II for the acquisition of this status is performed through the submission of the Declaration of basic working conditions.

C. Digitally submitted declarations in ERGANI II.

The implementation of the reforms of Law 5053/2023 is activated through the reformulation of the declarations submitted by the employer in the digital environment of ERGANI II, specifically:

- ▶ A Digital Announcement of initiation of employment form is provided, accompanied by a Declaration of basic terms of employment (the decision includes a complete template form) in which elements of the old form Recruitment Announcement (E3) and Supplementary Table of New Recruitment Personnel (E4) are merged.
- ▶ A form for the Digital posting of an individual employment contract is foreseen (the decision includes a complete template form and it is particularly important to point out that a form is also introduced concerning the cases of working abroad as well as posting of employee to an EU member state). The decision however states that this form shall be used "where available or where required" and this is a wording that needs further clarification. In any case the declaration should take place within 7 days from the date of commencement of work. The employment contract must be signed by both contracting parties either manually, or with an approved electronic signature, or with a digital certification through Gov.gr. Any change in the basic conditions must also be reflected in the individual contract without the need to post the individual contract again, except in the case of conversion of full-time to part-time or rotating employment. In any case, the original valid individual contract signed by the parties must be available for inspection.
- ▶ A Digital declaration of employer details form is provided for employment on the sixth day of the week in businesses that operate with no interruption.
- ▶ The forms regarding the termination of the employment contract are extensively redesigned and specifically the form Digital Notice of termination/expiration of the Employment Contract is introduced in which the existing forms E5, E6 and E7 are merged. Specifically, the following are provided for the case of termination of employment:
 1. Voluntary withdrawal
 2. Voluntary withdrawal following notice to absent employee
 3. Termination of contract without notice

4. Termination of contract with notice
5. Termination of a fixed-term contract (a. spontaneous termination due to the expiration of the agreed time, b. termination of a fixed-term contract, which includes a condition for early termination, according to article 40 of Law 3986/2011, c. termination of a fixed-term contract before the expiry of the agreed time for a good reason, d. termination of a fixed-term contract before the expiry of the agreed time without a good reason, e. consensual termination of the fixed-term contract before the expiry of the agreed time).
6. Voluntary exit
7. Retirement due to retirement
8. Voluntary departure of an employee due to completing fifteen years at the same employer or exceeding the retirement age limit with the employer's consent
9. Retirement by Termination of Contract Without Notice
10. Termination due to death of employee
11. Termination of trial contract. The announcement of the automatic termination of the trial contract is submitted by the employer during or at the end of this agreed period only in cases where the trial period was not considered successful by the employer or in cases where the employee wishes to terminate it.
12. Finally, as special cases, the announcement of the termination of the employment relationship due to the Transfer of a Business in accordance with the provisions of the P.D. 178/2002 and Expiration of Loans from Businesses, is foreseen.

The provision of article 22 of Law 5053/203 is activated according to which employers who have joined the electronic system of the digital work card may not register in ERGANI II the changes or modification of working hours or the organization of working time or overtime work before the start of their implementation. In particular, as Digital declarations of an employer included in the Digital Work Card system, they are now defined:

1. The Digital declaration of choice of pre-announcement or reporting system for registering schedule changes, organization of working time and overtime. It therefore follows that with this statement the employer chooses whether or not to pre declare changes in working hours or overtime. It is reminded that for those who choose to opt out of the pre-declaration system, in accordance with article 22 par. a' of Law 5053/2023, if there is a modification of the working hours or overtime work by the employee and this is not identified by the marking of the digital work card, a fine of €10.500 is imposed on the employer.
2. The Digital declaration of the actual start and end of an employee's employment
3. The Digital declaration of schedule changes, working time organization and overtime

It is stipulated that the declaration of Digital organization of working time and overtime can be submitted via mobile phone by sending a sms. Upon completion of the submission of the Digital organization of working time and overtime via mobile phone by sending a message, a protocol number and date of submission is assigned and imprinted and constitutes proof of submission for the employer. In case of successful or unsuccessful submission, a relevant message is sent to the user. In the event of no reply message being sent, the statement is deemed not to have been submitted.

It is foreseen that the data of the working time measurement system of each company must be kept for a period of at least 5 years and every employee has access to the data concerning him. The corresponding data in ERGANI II is mandatorily kept for a period of at least 6 months and every employee has access to the data concerning him.

The Submission of a declaration of basic working conditions is foreseen. In particular, the notice of commencement of work is accompanied by the "Declaration of Basic Conditions of Employment", the submission of which must be completed prior to commencement of work in the following ways:

1. With an attached file personally signed by the employer and employee or
2. With an attached file signed with an approved electronic signature of employer and employee
3. with an attached file signed with a digital certificate through Gov.gr or
4. With digital acceptance through the "MyErgani" information system.

A particularly interesting provision stipulates that in the event that the employee rejects the basic conditions, the employer may, in order to complete the process, submit a new statement of basic working conditions always before starting work. Of course, at this point it must be clarified what happens in the event that the disagreement on basic terms of employment persists (that is, must the non-commencement of work be declared in some way?). It is noted that the employer is obliged to amend the information included in the Declaration of Basic Working Conditions in the event of a change.

- ▶ It is provided that the employer is informed by ERGANI II of any valid declared contractual hours of weekly employment due to parallel employment of this employee with another or other employers, to whom he is hired from March 1, 2024 onwards. Of course, it is not specified which employer bears the burden of administrative sanctions in case of violation of working time limits due to parallel employment.
- ▶ The statement on on-demand employment (contracts with zero employment limits) is introduced, without, however, giving further clarifications on basic issues, such as indicatively how the annual gifts are calculated for those employees who work under this regime, how they are paid in case of exceeding minimum working hours, if they are allowed to work overtime.

- ▶ The declaration for employment on the sixth day is introduced in enterprises or holdings which are in continuous operation and apply a five-day weekly work system for their staff.
- ▶ The Digital declaration of voluntary retirement is activated in case of unjustified absence of the employee. In particular, in the event of the employee's unjustified absence from work for a period of more than 5 working days, the employer submits to ERGANI II electronically, a statement regarding the employee's absence (in any convenient way) and in the event of the lapse of 5 consecutive working days from the submission of this declaration, the employer is obliged, on the next working day, to submit the digital declaration of the employee's voluntary departure without the employee's signature.
- ▶ Provision is made for the possibility of amending submissions with corrections or withdrawal of submitted declarations without penalties, with a new electronic submission, as a correct repetition, within each time the deadline for the declaration of the relevant event.

The schedule of submissions to Ergani II is defined as follows:

ERGANI II DECLARATION	SUBMISSION DEADLINE
Announcement of commencement of employment	Prior commencement
Statement of basic terms of employment	Prior commencement
Declaration of digital organization of working time and overtime	Prior commencement
Digital declaration of changes in the employment relationship	Prior amendment
Digital declaration of changes in the employment relationship (salary change)	Within 15 days by the amendment
Digital declaration of changes in the employment relationship (salary change provided for by law or regulatory act or by CLA)	Within 30 days by the amendment
Digital Declaration of choice of a pre-announcement or accounting system for registering time changes, organization of working time and overtime by businesses or holdings that have joined the digital work card system	Until the end of the previous month from the reference month
Digital accounting statement of changes in working hours, organization of working time and overtime by businesses that have joined the digital work card system	Until the end of the next calendar month from their implementation
Posting of the individual contract	Within 7 days as of employment initiation
Declaration of termination/termination of the employment relationship	Within 4 days of the occurrence of the event
Digital declaration of employer details for employment on the sixth day of the week	Before the employee takes up service
Digital declaration of annual personnel table	Once during the period from October 1 to October 31 of each year
Declaration of digital organization and overtime of any change or modification of the schedule or the organization of working time and the overtime of employers who employ drivers of trucks and tourist buses for the transport of more than nine people, as well as Intercity and Urban Buses	Within 15 days after the end of each weekly work period
Digital statement of details of annual regular leave of the previous calendar year	Census, within the first quarter of the following year
Announcement of the Employed Personnel on the execution of construction work or technical work	Before starting the day's work
Announcement of the Employed Personnel on the execution of construction work or technical work in case of changes or modifications concerning the employed personnel	Prior commencement of employment
Census announcement of the personnel employed in the execution of construction work or technical work	Until the last day of the following month of employment
Declaration of use of moped or motorcycle for the transport or distribution of products and objects	Until the date of his/her first use and in any case before such use and within 4 days of the date of cessation of use

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Especially in our geographical area, we have established an ongoing cooperation with the respective law firms which are associated with EY, in order to offer seamless and consistent regional services to our clients that have cross country operations.

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For more information on labor issues, please contact:

Maria Rigaki

Partner

maria.rigaki@gr.ey.com

Maria Gkatzou

Manager

maria.gkatzou@gr.ey.com

at the

Platis - Anastassiadis & Associates Law Partnership

Tel.: +30 210 2886 512

legaloffice@gr.ey.com

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ey.com



EY



EY Greece



eygreece



@EY_Greece



EY Greece

Platis - Anastassiadis & Associates Law Partnership is associated with EY.

Partners: E. Platis, A. Anastassiadis

Partnership is registered with the Athens Bar, registration number 80240

List of our associates upon request.

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