

## **The Right to Employment (and the World of Employment) before the Firing Squad**

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In the beginning of May 2011, I found myself standing on the last floor of the Society for Macedonian Studies building, across the White Tower in Thessaloniki, and went out to the balcony. It was spring weather and I was watching from high above the traffic down at the street, where one can get irritated by everything that's happening and feel anxious when is there.

However, while I was gazing from that height –where not even the traffic noise can reach me– at the sea, the sky and the White Tower, I felt there is no need to be irritated or anxious, because one has the illusion that everything is better from up there with the wind, the sun, the sea and the view.

And after finishing my job there, I went back at the street, where I faced reality and realized the illusion itself.

I think that's what happens to people who watch things from balconies, from high above. They design map exercises, which don't concern them but the others –the ones down at the street- and feel that everything happening in this country is not that scary after all. However, this applies only to those people and anyone else standing on the balcony, high above, from where the others down at the street look like ants.

And, of course, “the people above” never get down at the street with the common men, so that they can face and feel closely the consequences of the measures taken and the living conditions of those they probably consider as ‘their subjects’.

Therefore, those who govern this country impose new measures, such as the unconditional and uncontrolled enforcement of the part-time employment, the reduction of wages, benefits and redundancy payments and the employees’ chase, since they consider all these necessary and effective, as long as they don’t affect you, the decision maker personally.

Eventually, the kings stand stark naked, but are they aware of this fact, even if we haven’t made them stand in front of a mirror?

The Law 3846/2010 gave the employers the opportunity to unilaterally impose part-time employment on their employees, at first for six months per year and after the provision’s amendment for nine months per year, as long as they invoke (not prove, and to whom anyway?) reduction of their economic activity.

The provision leaves nearly no room for doubt, not even to the competent services of the Hellenic Ministry of Labour and Social Security: it has more loopholes than a medieval castle, it provides almost no ability to audit this reduction of the economic activity, it does not obligate the employer who imposes the shift work to do so in proportion to his economic activity reduction, while the innate and almost complete inability of the competent services to substantially audit the employers.

The audit mechanisms of the Federation of Hellenic Information Technology & Communications Enterprises (SEPE) are most of the time unable to rise to the occasion of the aforementioned circumstances, due to objective reasons (lack of technical infrastructure and necessary personnel). For fear of reduction or abolition of the insurance rights of the public sector employees, the vast majority of the long-standing

SEPE employees, whose presence and experience would be extremely significant in minimizing the aforementioned phenomena, has already left from the Federation or will do so shortly, and the worst part is that they are not expected to be replaced in the near future.

The consequence of the above is that in many cases, notwithstanding the enforcement of the shift work, the employees are insured and paid for shift work, although they actually work full-time. In other words, the employers were given the opportunity –and indeed uncontrollably– to expand their profitability and economic activities, at the expense not only of the employees, but of the insurance system itself, and ultimately at the expense of the national economy.

The abuse of even these ‘extempore’ and ‘poorly formulated’ provisions is a daily phenomenon. The quotation marks are used at this point by the author, due to his belief that the labour law provisions have such ‘flaws’ on purpose, so that the ‘might is right’ law can prevail on the labour market.

A typical example is the case of those employees, who were forced by their employer to work in shifts one day per week, which resulted for some of them in spending half of their monthly salary just to go to work. And certainly these employees, whose net pay is no more than 200 euro per month, are not considered unemployed!

Therefore the means of implementation of this provision along with the lack of control measures for its usage by the employers, leads inescapably to the indirect –though clear and absolutely effective– blackmail of the employee, who is forced to ask for his dismissal in order to receive the also insufficient -yet higher than his salary as a shift employee for a day per week- unemployment benefit.

If we add the gradual increase of the minimum contributory period for a full pension from 37 to 40 years until 2015 –provided by the Memorandum of Understanding- to all the

above, then practically no Greek employee up to 35 years old today can meet the requirements for a full old-age pension, unless he/she works until he/she is seventy-five years old.

And here come those new measures, which deprecate completely the employment and payment of the young employees between 18 and 24 years old, for whom the full-time employment salary (5 days and 40 hours per week) will not exceed the 500€ net pay. Certainly such a legislative development constitutes a brutal and blatant violation of the Constitution provisions (article 1 and particularly article 22).

Apart from the prominent article “All Greeks are equal before the law”, which means that the legislative and governing bodies in general ought to act according to the equality principle (which the citizens can claim from the state), the Greek Constitution proceeded in one of its greatest innovations by giving a more ‘specialised’ definition of the aforementioned general principle: Article 22, para. 1, subpara. b established the “equal pay for equal work” principle according to which: “*All employees, regardless of gender or other distinction, have a right to equal remuneration for all completed work of equal value*”.

The provision of article 22, para. 1, subpara. b of the Greek Constitution constitutes a special manifestation of the general equality principle of article 4, para. 1 of the Constitution, however, it systematically pertains to the constitutional labour law and this attributes autonomy and independence to it, as opposed to the general equality principle.

And that’s because the constitutional lawmaker, while proclaiming exultantly in article 22, para., 1 subpara. b of the Constitution the principle of equal treatment in employment, detached this issue from the other equality issues and adjusted it in a cohesive and independent way, in order to ensure the functionality of the principle in question as a specialised, fundamental, but also autonomous constitutional principle of labour law.

All the government bodies, the legislature included, are bound by the aforementioned specialised equal treatment principle of Article 22 of the Constitution, which is not allowed to discriminate against individual employees or groups of employees as far as the regulation of employment terms is concerned, let alone when the sole criterion is the employee's age.

We currently anticipate the publication of the provisions, however one should consider possible (or even certain) the enforcement of new measures at expense of the employment, and all these on the pretext of 'increasing the competitiveness' of the Greek companies. This 'excuse' has neither boundaries nor an end, unless wages and working conditions similar to Asia and China are enacted in Europe.

I wonder if Greece will be the precursor of the 'Asianation' of labour in Europe (obviously someone is testing our stamina, but our inaction as well) or the employees, the unions and the collective bodies will react, because the situation can only be faced in an organized, collective and planned way.

Otherwise, not only will this protest be ineffective and not at all disturbing, but on the contrary it will become a "pressure relief valve" (of the tension, the rage, the agony, the protest), which will have no cost for the 'usual suspects', those who pursue not only to send the employment before the firing squad, but to fire at it as well.