

Newsletter

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Article

**Summer Training Comes Up with The Following:
Employee New Opportunity to benefit of 2 years'
salary in case of Termination by the Employer!**



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Introduction

This article undertakes a comprehensive analysis of the legal significance attributed to notice periods and benefits offering a definitive guide to employers and employees in the United Arab Emirates (UAE). Notice periods and allowances are crucial elements that pertain to the termination process and contribute to the equitable treatment of both parties involved in the employment contract.

The essence of the notice period lies in its pivotal role within the employer-employee relationship, as it provides a fair and structured means to end the employment relationship. It benefits both parties by giving the employer sufficient time to find a replacement while ensuring that the employee has sufficient opportunity to seek alternative employment. This framework intends to promote transparency, reduce abrupt job terminations, and facilitate a seamless transition.

The objective of this article is to provide clarity on the recent developments in the UAE Labor Law and the prospective implications they entail for future practices.

Legal Background

Within the United Arab Emirates (UAE), notice periods and benefits in employment contracts are governed by the provisions of UAE Labor Law (Federal Decree-Law No. 33 of 2021 and its amendments, including Federal Decree No. 9 of 2022). Commencing with Article 43.2 of the Labor Law and extending through the subsequent provisions, the UAE Labor Law mandates that if either party intends to terminate the employment, it is the contractual terms that usually stipulate the requirement of the prescribed notice, whereby it is usually between 1 to 3 months. However, in the case study analysed below, a different outcome was brought forth.

Furthermore, Article 65 of the UAE Labor Law, reinforces the protection of employees' rights by stating that any agreement or condition contrary to the provisions of the law shall be void while affirming the prevalence of the most favorable provision in favor of the employee.

In summary, it is the application of Articles 65 and 43 in the Labor Law, that underlines the importance of notice periods and benefits thereby providing employees with a sense of security in their employment agreements, aiming to better employer and employee relationships.

Judgement Study

A decisive verdict emerged in 2023 from the Court of Cassation, marking a milestone in the jurisprudential landscape. For the first time, the Court upheld the pre-eminence of the contractual agreement, prioritizing the contractual content and, notably, favouring the weaker party in the agreement, namely the employee.

This significant decision opened avenues to extend the notice period beyond the statutorily prescribed duration, serving the best interests of the employee, while also setting forth a precedent where the Court enables the employee to have more rights.

Specifically in this case study, the employee was able to obtain a notice period equal to the remainder of the contract (2 years) due to the fact that the employer terminated the agreement before its expiry. Additionally, it compelled the employer to adhere to the terms set in the contractual agreement, therefore, holding them responsible.

Overall, the judgment stated “that the worker rights that are more beneficial than the rights established under the provisions of this Decree-Law are and every condition that contravenes the provisions of this Decree-Law is considered null and void, even if it was prior to its enforcement unless it is more beneficial to the worker” obliging each party to fulfil their respective contractual obligations.

Conclusion

In conclusion, the legal significance of notice periods and benefits within the employment field of the UAE cannot be understated. They promote the principles of fair treatment of the relationship between employers and employees throughout the termination process. The UAE Labor Law, particularly Article 43.3 and Article 65, stands resolute in their commitment to safeguarding the rights of the employees. The recent landmark ruling by the Court of Cassation further strengthens the protection of employees by prioritizing their interests in the employment agreement. In this context, it grants employees the ability to challenge the notice period aforementioned, provided that such a provision is mentioned in the agreement, and subject to the agreement being terminated by the employer.

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