

**LABOUR LAW: PROTECTION OF
EMPLOYMENT FROM TERMINATION AND
THROUGH TERMS OF EMPLOYMENT**

**ALL CYPRUS TRADE UNIONS FORUM
MAY 2015, NICOSIA, CYPRUS**

**Nelson K Neocleus, MA
(Labour and Development)**

**International Institute of Social Studies,
Erasmus University Rotterdam**

THANKS AND CONGRATULATIONS

- Glad to be with you ...
 - Thanking the Forum ...
- and congratulating them ...

IMPORTANCE OF LEGAL PROTECTION

- **Traditional labour relations system and role of associations:** collective bargaining as main pillar of the system; legislative protection as further support of vulnerable groups of workers
- **Adverse economic and labour market conditions** have recently rendered legislative protection more important.
- **I shall present today a small part of the laws** that aim at protection of workers.

CHAPTERS OF THE LAW

- This presentation consists of the following chapters of legislative protection:
 - **Termination of employment**
 - **Working time**
 - **Special forms of employment**

TERMINATION OF EMPLOYMENT (titles)

- Redundancy dismissals and other dismissals
- Rules for justified and unjustified (wrongful) dismissal
- Compensation, Reinstatement, Redundancy Fund
- Collective dismissals (a different law)

TERMINATION OF EMPLOYMENT (1)

- Basic cases: justified and unjustified (fair versus wrongful) dismissal
- Redundancy (also justified)
- Reasons for justified dismissals:
 - Redundancy
 - Force Majeure (e.g. earthquake, war)
 - End of agreed period or project completion
 - Performance / Behaviour

TERMINATION OF EMPLOYMENT (2)

- In most cases, notification is necessary before empl't termination
- Notification is not needed in case of "gross misconduct"
- All other cases of dismissal are unjustified, e.g. if dismissal concerns basic human rights

TERMINATION OF EMPLOYMENT (3)

- **Forced resignation:** in case of serious misconduct by employer, employee has right to resign and claim compensation
- **In such a case the employee bears the burden of proof** (while usually ...).
- The employee bears also the burden of proof for the fact of dismissal, in cases of unjustified dismissals.

TERMINATION OF EMPLOYMENT (4)

- Right to, and amount of, compensation
 - For payment by the Redundancy Fund one must be covered by the law, e.g. minimum two years of service {last employer} and contributions to the Fund
 - Compensation (and notification) vary according to years of service (usually with last employer only)
 - The also vary according to wage, with min/max limits
 - Exceptions during trial period and over 65
- Re-employment possible, but rarely claimed

COLLECTIVE DISMISSALS

- Collective dismissals, also a case of empl't termination, but covered by special Law, in addition to the Termination of Employment Law.
- The Coll. Dismissals Law does not apply to small enterprises with up to 20 employees.
- Dismissals considered as **collective** when, within 30 days, 10% of personnel is dismissed (with lower limit 10 persons and higher limit 30 persons).
 - Actually, the lower limit of 10 persons (which applies for enterprises with 21-99 employees) means that the minimum percentage of dismissals that would qualify them as collective is much higher. For an enterprise with 30, say, employees the percentage is 33%

COLLECTIVE DISMISSALS (2)

- The Law provides for consultation, by employer, of workers' representatives
- Consultation must be conducted in time
- Dismissals not valid before 30 days pass (obviously for consultations)
- Employer has to provide information on: reasons for dismissal, period, criteria of selection of persons, any payments
- Authorities (Minister) must be informed, for resolution of problems

WORKING TIME

The Working Time framework Law sets maxima to hours work and minima to hours of rest. It covers, mostly:

- **Weekly and daily hours of work, and daily breaks;**
- **Weekly rest; annual leave;**
- **Night work, shift work and work pace**

It is complemented by other laws.

WORKING TIME FRAMEWORK LAW (2)

- Maximum limit of 48 hours per week, including overtime;
 - **but the “48 hours” may be an average**
- Continuous night rest of 11 hours; and additional rest of 24 hours every week (or 48 hours every 2 weeks)
- Four weeks of annual leave (**which may not be converted to cash pay**)
- Night-work and shift-work limitations

Additional WORKING-TIME Laws

- Shops: Operation and Employees Leg'n
- Hours of Employment (offices and services) Legislation
- Land Transport (drivers) Law (Detailed **EU Regulation** complements this Law)
- Maritime/Sea Workers Legislation
- Hotels, Catering, Entertainment Leg'n

WORKING TIME LAWS (3)

- Exclusions: Many laws of this group exclude from their scope the Police and the Armed Forces (and also activities that are covered by other laws of the group).
- Some of them also accept exclusions for practising physicians (doctors), for church and transport occupations, and for managers and family members
- Most of them accept collective agreements, and provide that such agreements take precedence when they are more favourable to the employee.

WORKING TIME (last)

The framework law accepts exceptions (derogations) provided that:

- **there are relevant collective agreements and/or agreements with worker representatives**
- **and that certain conditions apply ...**

SPECIAL FORMS OF EMPLOYMENT

Two forms of employment, known as “atypical” until quite recently, are now more usual, more protected and/or more accepted by legislation:

- **Part-time** employment
- **Fixed-term** employment

PART-TIME WORK LAW (1/2)

- Discrimination against part-time workers should be eliminated, on the basis of comparable full-time workers.
- Part-time workers should have proportional and/or equal treatment vis-à-vis full-time workers. For example, same protection as regards freedom of association, gender equality and worker representatives; entitled to holidays with pay also for minimum of four weeks but with less pay per week, since they work fewer hours.

PART-TIME WORK LAW (2/2)

- Collective agreements should not be discriminatory against part-time workers – and the Ministry should ask social partners to amend discriminatory coll.agreements
- Transfer from full-time to part-time work or vice versa should be voluntary.
- Full-time workers in partial unemployment should not be considered part-time workers.
- Certain exceptions: e.g. social insurance schemes and ...

FIXED-TIME WORK LAW

- No discrimination against fixed-time work: proportionality (analogous/equal treatment) between full-time workers and workers with open-ended contracts/relationships
- Comparable open-ended workers
- Exceptions on scope/coverage, e.g. apprentices
- After 30 months of successive FT contracts, the relationship becomes open-ended.
- Exceptions in case of casual workers, ending projects etc ...

NO MORE TIME FOR NOW

- I don't think that I'm allowed to continue;
- but I would like to hear comments or answer questions later.
- **Thank you** for your attention!

