

Labour Code, Law No. 65-99

Reference: Dahir No. 1-03-194 of 14 Rejeb 1424 (11 September 2003) promulgating Law No. 65-99 on the Labour Code, which entered into force on 8 June 2004

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Practice areas: Employment law, Business law

The Labour Code governs employment contracts, their suspension and termination, working conditions (working hours, leave, wages, health and safety), trade unions and staff representatives, collective bargaining, the labour inspectorate and the settlement of collective disputes.

The employment contract

- The permanent contract (CDI) is the general rule; fixed-term contracts (CDD) are limited to the cases provided for (replacement, temporary increase in activity, seasonal work, opening of a new business for one year renewable once) (Arts. 16 and 17).
- Probationary period: three months for managers, one and a half months for employees, fifteen days for workers, renewable once (Art. 14).
- Statutory working time: 2,288 hours per year, i.e. 44 hours per week in non-agricultural activities (Art. 184).

Termination of the contract

- Dismissal must be based on a valid reason relating to the employee's competence or conduct or to the operational requirements of the business (Art. 35).
- Serious misconduct is listed in Article 39 (theft, drunkenness, assault, unjustified absence of more than four days, etc.).
- Procedure for hearing the employee within eight days of the misconduct, in the presence of a staff delegate or trade union representative, with written minutes (Art. 62); the decision is notified within 48 hours with a copy to the labour inspector (Art. 63).
- Notice period (Art. 43 and Decree 2-04-469), severance pay after six months' service (Arts. 52 and 53): 96 hours' wages per year for the first five years, 144 hours from the 6th to the 10th year, 192 hours from the 11th to the 15th year, 240 hours beyond that.
- Unfair dismissal: damages of one and a half months' wages per year or part-year of service, capped at 36 months (Art. 41).
- Dismissal on technological, structural or economic grounds requires the authorisation of the governor (Arts. 66 to 71).

Litigation

- Jurisdiction of the social division of the Court of First Instance; an attempt at conciliation is possible before the labour inspectorate (Arts. 41 and 532).
- Two-year limitation period (Art. 395).
- An agreement concluded before the labour inspector is a final settlement not open to appeal (Art. 41).

Key articles

ART. 35

The dismissal of an employee without a valid reason is prohibited, unless the reason relates to the employee's competence or conduct, or is based on the operational requirements of the business.

ART. 41

In the event of wrongful termination of the employment contract by one of the parties, the injured party is entitled to damages. The amount of damages is set on the basis of one and a half months' wages per year or part-year of work, without however exceeding a ceiling of 36 months.

ART. 62

Before being dismissed, the employee must be able to defend himself and be heard by the employer or the employer's representative, in the presence of the staff delegate or trade union representative within the company of the employee's own choosing, within a period not exceeding eight days from the date on which the act attributed to the employee was established.

Points to watch

- For employers, failure to follow the hearing procedure (Art. 62) makes the dismissal unfair even if the misconduct is real.
- For employees, never sign a final settlement receipt (*reçu pour solde de tout compte*) without checking it: it may be challenged within sixty days (Art. 73).
- Keep payslips, contracts and correspondence: the burden of proving a valid reason lies on the employer, while the employee must prove length of service and wages.

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