



ΠΑΡΑΡΤΗΜΑ ΠΡΩΤΟ
ΤΗΣ ΕΠΙΣΗΜΗΣ ΕΦΗΜΕΡΙΔΑΣ ΤΗΣ ΔΗΜΟΚΡΑΤΙΑΣ
Αρ. 2053 της 31ης ΜΑΪΟΥ 1985
ΝΟΜΟΘΕΣΙΑ

Ο περί της Συμβάσεως περί του Τερματισμού της Απασχολήσεως (Κυρωτικός) Νόμος του 1985 εκδίδεται διά δημοσιεύσεως εις την επίσημον εφημερίδα της Κυπριακής Δημοκρατίας συμφώνως τω άρθρω 52 του Συντάγματος.

Αριθμός 45 του 1985

ΝΟΜΟΣ ΚΥΡΩΤΙΚΟΣ ΤΗΣ ΣΥΜΒΑΣΗΣ
ΠΕΡΙ ΤΟΥ ΤΕΡΜΑΤΙΣΜΟΥ ΤΗΣ
ΑΠΑΣΧΟΛΗΣΕΩΣ ΤΟΥ 1982

Η Βουλή των Αντιπροσώπων ψηφίζει ως ακολούθως :

1. Ο παρών Νόμος θα αναφέρεται ως ο περί της Συμβάσεως περί του Τερματισμού της Απασχολήσεως (Κυρωτικός) Νόμος του 1985. Συνοπτικός
τίτλος.
2. Στον παρόντα Νόμο, εκτός αν από το κείμενο προκύπτει διαφορετική έννοια— Ερμηνεία.
«Σύμβαση» σημαίνει τη Σύμβαση περί του Τερματισμού της Απασχολήσεως του 1982 της οποίας το κείμενο στο αγγλικό πρωτότυπο εκτίθεται στο Πρώτο Μέρος του Πίνακα και σε Ελληνική μετάφραση στο Δεύτερο Μέρος του Πίνακα: Πίνακας
Πρώτο Μέρος
Δεύτερο
Μέρος.
Νοείται ότι σε περίπτωση αντίθεσης μεταξύ των δύο κειμένων υπερισχύει αυτό που εκτίθεται στο Πρώτο Μέρος του Πίνακα.
3. Με τον παρόντα Νόμο κυρώνεται η Σύμβαση. Κύρωση
Συμβάσεως.

ΠΙΝΑΞ

(Άρθρο 2)

ΠΡΩΤΟ ΜΕΡΟΣ

CONVENTION 158 CONCERNING TERMINATION OF EMPLOYMENT
AT THE INITIATIVE OF THE EMPLOYER

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-eighth Session on 2 June 1982, and

Noting the existing international standards contained in the Termination of Employment Recommendation, 1963, and

Noting that since the adoption of the Termination of Employment Recommendation, 1963, significant developments have occurred in the law and practice of many member States on the questions covered by that Recommendation, and

Considering that these developments have made it appropriate to adopt new international standards on the subject, particularly having regard to the serious problems in this field resulting from the economic difficulties and technological changes experienced in recent years in many countries,

Having decided upon the adoption of certain proposals with regard to termination of employment at the initiative of the employer, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this twenty-second day of June of the year one thousand nine hundred and eighty-two the following Convention, which may be cited as the Termination of Employment Convention, 1982:

PART I. METHODS OF IMPLEMENTATION, SCOPE AND DEFINITIONS

Article 1

The provisions of this Convention shall, in so far as they are not otherwise made effective by means of collective agreements, arbitration awards or court decisions or in such other manner as may be consistent with national practice, be given effect by laws or regulations.

Article 2

1. This Convention applies to all branches of economic activity and to all employed persons.

2. A Member may exclude the following categories of employed persons from all or some of the provisions of this Convention:

- (a) workers engaged under a contract of employment for a specified period of time or a specified task;
- (b) workers serving a period of probation or a qualifying period of employment, determined in advance and of reasonable duration;
- (c) workers engaged on a casual basis for a short period.

3. Adequate safeguards shall be provided against recourse to contracts of employment for a specified period of time the aim of which is to avoid the protection resulting from this Convention.

4. In so far as necessary, measures may be taken by the competent authority or through the appropriate machinery in a country, after consultation with the organisations of employers and workers concerned, where such exist, to exclude from the application of this Convention or of certain provisions thereof categories of employed persons whose terms and conditions of employment are governed by special arrangements which as a whole provide protection that is at least equivalent to the protection afforded under the Convention.

5. In so far as necessary, measures may be taken by the competent authority or through the appropriate machinery in a country, after consultation with the organisations of employers and workers concerned, where such exist, to exclude from the application of this Convention or of certain provisions thereof other limited categories of employed persons in respect of which special problems of a substantial nature arise in the light of the particular conditions of employment of the workers concerned or the size or nature of the undertaking that employs them.

6. Each Member which ratifies this Convention shall list in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation any categories which may have been excluded in pursuance of paragraphs 4 and 5 of this Article, giving the reasons for such exclusion, and shall state in subsequent reports the position of its law and practice regarding the categories excluded, and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories.

Article 3

For the purpose of this Convention the terms "termination" and "termination of Employment" mean termination of employment at the initiative of the employer.

PART II. STANDARDS OF GENERAL APPLICATION

DIVISION A. JUSTIFICATION FOR TERMINATION

Article 4

The employment of a worker shall not be terminated unless there is a valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, establishment or service.

Article 5

The following, inter alia, shall not constitute valid reasons for termination:

- (a) union membership or participation in union activities outside working hours or, with the consent of the employer, within working hours;
- (b) seeking office as, or acting or having acted in the capacity of, a workers' representative;

- (c) the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities;
- (d) race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin;
- (e) absence from work during maternity leave.

Article 6

1. Temporary absence from work because of illness or of injury shall not constitute a valid reason for termination.

2. The definition of what constitutes temporary absence from work, the extent to which medical certification shall be required and possible limitations to the application of paragraph 1 of this Article shall be determined in accordance with the methods of implementation referred to in Article 1 of this Convention.

DIVISION B. PROCEDURE PRIOR TO OR AT THE TIME OF TERMINATION

Article 7

The employment of a worker shall not be terminated for reasons related to the worker's conduct or performance before he is provided an opportunity to defend himself against the allegations made, unless the employer cannot reasonably be expected to provide this opportunity.

DIVISION C. PROCEDURE OF APPEAL AGAINST TERMINATION

Article 8

1. A worker who considers that his employment has been unjustifiably terminated shall be entitled to appeal against that termination to an impartial body, such as a court, labour tribunal, arbitration committee or arbitrator.

2. Where termination has been authorised by a competent authority the application of paragraph 1 of this Article may be varied according to national law and practice.

3. A worker may be deemed to have waived his right to appeal against the termination of his employment if he has not exercised that right within a reasonable period of time after termination.

Article 9

1. The bodies referred to in Article 8 of this Convention shall be empowered to examine the reasons given for the termination and the other circumstances relating to the case and to render a decision on whether the termination was justified.

2. In order for the worker not to have to bear alone the burden of proving that the termination was not justified, the methods of implementation referred to

in Article 1 of this Convention shall provide for one or the other or both of the following possibilities:

- (a) the burden of proving the existence of a valid reason for the termination as defined in Article 4 of this Convention shall rest on the employer;
- (b) the bodies referred to in Article 8 of this Convention shall be empowered to reach a conclusion on the reason for the termination having regard to the evidence provided by the parties and according to procedures provided for by national law and practice.

3. In cases of termination stated to be for reasons based on the operational requirements of the undertaking, establishment or service, the bodies referred to in Article 8 of this Convention shall be empowered to determine whether the termination was indeed for these reasons, but the extent to which they shall also be empowered to decide whether these reasons are sufficient to justify that termination shall be determined by the methods of implementation referred to in Article 1 of this Convention.

Article 10

Of the bodies referred to in Article 8 of this Convention find that termination is unjustified and if they are not empowered or do not find it practicable, in accordance with national law and practice, to declare the termination invalid and/or order or propose reinstatement of the worker, they shall be empowered to order payment of adequate compensation or such other relief as may be deemed appropriate.

DIVISION D. PERIOD OF NOTICE

Article 11

A worker whose employment is to be terminated shall be entitled to a reasonable period of notice or compensation in lieu thereof, unless he is guilty of serious misconduct, that is, misconduct of such a nature that it would be unreasonable to require the employer to continue his employment during the notice period.

DIVISION E. SEVERANCE ALLOWANCE AND OTHER INCOME PROTECTION

Article 12

1. A worker whose employment has been terminated shall be entitled, in accordance with national law and practice, to—

- (a) a severance allowance or other separation benefits, the amount of which shall be based inter alia on length of service and the level of wages, and paid directly by the employer or by a fund constituted by employers' contributions; or
- (b) benefits from unemployment insurance or assistance or other forms of social security, such as old-age invalidity benefits, under the normal conditions to which such benefits are subject; or