

CASE LAWS

Labour Relations and Collective Advantages/Benefits

• CONFIDENTIALITY OF THE INFORMATION COMMUNICATED TO THE WORKS COUNCIL •

In the context of an information/consultation process, the information given to the Works Council are considered as confidential according to the Company's interests. The improper reference to this confidentiality is an infringement to the works council's rights and missions. Therefore, the process of information and consultation should be redone from the beginning. *Cass. Soc. November 5, 2014 n°13-17.270*

Individual Relations

• EQUALITY •

The professional skills and the difference of work's quality do not justify an inequality of treatment when the employee is hired. Later, during the execution of the contract, these elements can justify an inequality of treatment like salary increases or professional evolution. *Cass. Soc. November 13, 2014 n°12-20.069*

• TRIAL PERIOD •

A notice period must be respected to terminate a trial period, which does not increase it. Should the employee continue to work after the end of the trial period, a new working relationship begins which can only be terminated by the employer in accordance to the dismissal procedure. Failing this, the termination is considered as an unfair dismissal. *Cass. Soc. November 5, 2014 n°13-18.114*

• AGREED TERMINATION ("RUPTURE CONVENTIONNELLE") •

The agreed termination can immediately be signed after the interview of negotiation. In the absence of lack or defect of the employee's consent, the sole dispute existing between the employer/employee does not invalidate the rupture. *Cass. Soc. November 19, 2014 n°13-21.979*

The absence of information of the employee concerning the possibility to be assisted in the interview of negotiation does not solely invalidate the rupture. *Cass. Soc. Novembre 19, 2014 n°13-21.207*

• REORGANIZATION •

No social plan must be implemented in case of a reorganization to decrease the workforce on the basis of internal mobility or volunteers to leave the company, without any dismissal. *Cass. Soc. November 5, 2014 n°13-17.270*

• DISMISSAL FOR MISCONDUCT •

The control of the activity of the employees by an internal service composed of executive employees is not considered as a spinning or an illegal evidence and does not imply the prior information of the employees and Works Council, in the absence of violation of the private life. *Cass. Soc. November 5, 2014 n°13-18.427*

• DISMISSAL VOID AND NULL •

The dismissal of a protected employee (staff delegate, union trade) considered as void and null can result in his reinstatement in the Company and the payment of an indemnity equals to the salary from the termination. This indemnity does not cumulate with the unemployment allowances received during the same period which must be reimbursed. *Cass. Soc. November 19, 2014 n° 13-23.643*

• SETTLEMENT AGREEMENT •

The employee who waives any claim related to the execution and the termination of his contract of employment excludes any litigation to obtain damages for the loss of salary due to this termination. *Cass. Soc. November 5, 2014 n°13-18.984*