

NEWSLETTER

Embassies and expats 2012

This newsletter deals with some important legal changes pertaining to embassies and expats, a specialist practice area at our law firm.

Employment protection in international labour relations

Based on the Extraordinary Labour Relations Decree 1945 (BBA) the employer needs prior consent from the UWV to terminate an employment contract. But to what extent is that applicable to the dismissal of foreign employees in the Netherlands or of Dutch employees abroad? That Dutch law has been declared applicable to (international) employment contracts does not mean that the BBA is applicable to those as well, whereas, on the other hand, the BBA may well be applicable even though Dutch law has not been declared applicable. According to the jurisprudence, the BBA is applicable if the socio-economic interests of the Dutch labour market are involved in the labour relations.

In contravention of the jurisprudence the High Court of Amsterdam judged in 2010 that the protection of the employee against unjustified dismissal has to be the decisive criterion. This means that the employee's situation has to be compared to that of any other employee who works for a Dutch employer on the basis of Dutch law. The decision entailed that a permit was still required for the dismissal of an American employee who had been working in the Netherlands for three years although he had returned to the United States after his dismissal. Recently, the High Court in Arnhem adopted this approach, however, it also investigated the involved socio-economic interests of the Dutch labour market. As a consequence, no permit was required for the dismissal of a Dutch employee who had worked for a Dutch employer on the basis of Dutch law in Romania and who wanted to keep on working in Romania after his dismissal.

As a consequence of these judgements, the Dutch employment protection rules will be applicable to expats in the Netherlands more often.

Dual citizenship

The House of Representatives is currently discussing a bill on the prevention of dual citizenship. If this bill will be passed, Dutch nationals abroad will, together with their children, lose the Dutch nationality if they apply for second citizenship. In that case they will only be allowed to keep the passport of the country where they live and work. This bill disregards the importance of the network of the Dutch abroad for the Dutch business world, the academic world and for embassies and consulates.

RUSSELL ADVOCATEN

Embassy desk

At Russell Advocaten, we have a special department for embassies and consulates, the embassy desk. Please contact us via e-mail at embassydesk@russell.nl.

For expat-related questions please contact mr. Jan Dop at (jan.dop@russell.nl).

If you would like more information about the above mentioned subjects you can contact our office daily. Please find our address on the right.

