

Qatari Court of Cassation: A dispute relating to an unregistered commercial agency agreement shall not be heard by the Qatari courts

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If a commercial agent is registered as such in the commercial agents' registry of the Ministry of Business and Trade, then the agent, its principal and the relevant agency agreement would be subject to the provisions of the Agency Law which provides, in particular, for compensation of the local agent in case of termination of the agency agreement.

The importance of this recent Cassation Judgment is that it provides confirmation from the highest level of the justice system in the country that any commercial agency which has not been registered in the commercial agents register in accordance with the provisions of the Agency Law shall not be recognised and any legal action relating to a dispute between the parties of a commercial agency agreement (even if it was entered into prior to the entry into force of the Agency Law) shall not be heard by the court.

Background:

Following the termination of a Commercial Agency agreement between a foreign company (the Defendant) and its local Qatari agent (the Claimant) entered into prior to the entry into force of the Agency Law in 2002, the Claimant initiated court proceeding claiming unpaid dues and compensation from the Defendant. The Claimant argued that the engineering services agency agreement that was entered into between him and the Defendant should be characterized as a commercial agency agreement and that said agreement was terminated in breach of the provisions of the Agency Law, hence the Claimant alleged that he was entitled to unpaid due commissions and compensation in accordance with article 9 of the Agency Law.

The Court of First Instance accepted the case and rendered a judgment giving the Claimant part right to a part of his claim. Following the First Instance judgment, both parties appealed against the findings of the Court of First Instance. The Court of Appeal overruled the judgment of the Court of First Instance, and decided, in favour of the Defendant, by rejecting the claim considering that the commercial agency was not registered in the special register of the Ministry of Business and Trade and therefore, in accordance with Article 16 of the Agency Law, the commercial agency relationship shall not be recognised and any legal action relating to a dispute between the parties of a commercial agency agreement (even if it was entered into prior to the entry into force of the Agency Law) shall not be heard by the court. The Claimant then appealed to the Court of Cassation on the basis that the Court of Appeal misinterpreted the laws and that Article 16 of the Agency Law applies only vis a vis third parties and shall not apply to the relationship between the agent and the principle and it's a public policy rule.

The Court of Cassation decision:

The Court of Cassation rejected the appeal of the Claimant on the basis of the following:

- The Commercial Agency business is a commercial activity that could only be practiced by those agents registered in the Ministry of Business and Trade's Commercial Agents Registry according to Articles 10 and 11 of the Agency Law. Thus, each Commercial Agent wishing to practice this agency activity in Qatar

should register himself (and provide a copy of the commercial agency agreement) with the Commercial Agents Registry of the Ministry of Business and Trade.

- The aforementioned principle is a condition to pursuing any legal action with the courts if the matter relates to commercial agencies organized by the Agency Law, and the principle is a public policy rule applicable from the date of entry into force of the Agency Law with regards to all agency agreements, even those which were entered into prior to the publication of the Agency Law in the official gazette. Therefore, the court should raise this defence even if it was not raised by any of the parties.

In the light of the above, the Court of Cassation upheld the judgment of the Court of Appeal and rejected the Claimant's demands.