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A Study on the Application and Disputes of the Termination Regulations of Migrant Labor Contracts

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Abstract

Migrant workers have become an indispensable and important labor force in Taiwan. It has also been 30 years since Taiwan opened up legal employment of foreign workers. However, because Article 42 of the Employment Service Law is used by courts or administrative agencies, migrant workers in Taiwan must not affect the employment rights of their own nationals, that is, the so-called "priority principle of nationals" of the so-called migrant workers must be supplementary labor, which led to the wrong interpretation. Migrant workers often receive unfair treatment when disputes over termination of labor contracts occur. This article believes that before mentioning the amendment, I should confirm that the "principle of nationals" is only a guiding principle for administrative agencies when drafting regulations on the transfer of tools, and should not be used for interpretation of individual cases. The provisions of the Employment Service Law and other administrative decrees cannot affect the effectiveness of the private law

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contract between migrant workers and employers. Disputes over termination of migrant workers should apply the same legal principles as domestic workers. Only in accordance with this principle can the fair and reasonable settlement of migrant workers be resolved.

Keywords: Migrant Workers, Employment Service Law, Termination of a Labor Contract, Labor Standard Law, Priority Principle of Nationals