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## Employment & Benefits - Switzerland

### Termination for cause – brief social termination period permitted

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#### Decision

#### Termination period

#### Comment

#### Decision

On October 15 2014 the Supreme Court ruled that employers may agree to a brief termination period when an employment relationship is terminated for cause. The court had to decide on a case where a sports teacher had behaved inappropriately towards certain female students during school lessons, for which he was formally reprimanded in June 2011.

The teacher's inappropriate behaviour continued and in Autumn 2011 the school management proposed to terminate his employment at the end of January 2012 (the school year ended mid-2012). When the employee refused the proposal, the school management decided to dismiss the teacher for important reasons (ie, for cause) and with immediate effect. The court upheld this decision.

#### Termination period

In line with past court precedents, leading legal commentators in Switzerland have held that employers are not allowed to grant a termination period that is shorter than the ordinary termination period in case of dismissal for cause. Employers must instead issue the termination notice within a few days of the termination incident, which must be sufficiently serious that ordinary termination notice would be unacceptable. By granting even a brief termination period, the employer demonstrated that an important reason for terminating the employment relationship with immediate effect had not been given.

The court also made it clear that a new social termination period must be "clearly briefer" than the ordinary termination period, and that the reasons for granting a social termination period must solely protect the employee's interest.

#### Comment

The court precedent will allow for agreements on severance and settlement to be reached more easily in cases where it is unclear whether termination for cause is possible. This is against the background that immediate termination notices for cause which the court has subsequently cancelled not only result in full salary payment over the entire termination period, but often lead to liquidated or punitive damages of up to six months' salary.

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