



Notice periods for sales representatives may be inappropriate - Commercial Law

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GRP Rainer Lawyers and Tax Advisors in Cologne, Berlin, Bonn, Bremen, Dusseldorf, Essen, Frankfurt, Hamburg, Hanover, Munich, Nuremberg, Stuttgart and London - www.grprainer.com/en conclude: In a judgment of March 21, 2013 (File number VII ZR 224/12), the Federal Supreme Court (BGH) ruled that a standard provision used against a part-time sales representative, according to which the termination of a contract after a term of three years should be permissible only with twelve months notice effective the end of a calendar year to avoid inappropriate discrimination. In particular, such a provision is not to withstand judicial control of substance in accordance with section 307, subsection 1, Civil Code (BGB). It would inappropriately discriminate against the sales representative contrary to the principles of good faith.

Other principles should apply to part-time sales representatives than to full-time sales representatives. In particular, it must be possible to terminate a relationship with a part-time sales representative more quickly than a relationship with a full-time sales representative. In the opinion of the BGH, this is to apply because a sales representative who is only employed on a part-time basis should not be prevented from accepting a sales representative job on a full-time basis with a competing company that would ensure the sales representative's livelihood.

Sales representatives are defined as a persons who are self-employed in a business with its own corporate risk, is constantly obligated to procure or conclude business transactions for other entrepreneurs and who undertake this on behalf of and in the name of others. During their contractual relationship, sales representatives are entitled by law to a commission for all business transactions that can be traced back to their activities. Even after termination of their contract, sales representatives also have a legally regulated claim against the entrepreneur if the latter still profits from the business relationships the sales representative had solicited during the term of the contract.

Sales representatives or persons who wish to collaborate with a sales representative should at an early time seek the advice of a lawyer with experience in commercial law.

A lawyer experienced in commercial law can help to enforce a sales representative's claims for compensation or commission or offer advice with regard to the possibilities of terminating a sales representative's contract in an individual case.

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Anlage: Bild

