



Association d'avocats

QUID JURIS?

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GENERAL INFORMATIONS

REGULATION

Financial control of the State - Statutory companies of a public utility

The rule of the financial control of the State fixed by a law of April 14th, 1960 was the object of a major reform promulgated by a law of November 11th, 2003 came into effect on December 18th, 2003, a date of its publication in the Official Bulletin.

The objective of this reform is to allow a better governance of the public bodies and companies by the implementation of a real management control and an economic and financial performance. The control a priori is henceforth renewed and kept only for the public establishments.

The control has posterior or conventional companies with participation mainly or not mainly public substitutes itself henceforth for the control a priori. This evolution is situated in the continuation of the reform of the company law intervened in 1997 henceforth more corresponding to the current European standards.

Statutory companies or managers of a public utility of the Moroccan State or the public community are also concerned by this reform.

For these companies, the control a priori which extended over all the operations susceptible to have a direct or indirect financial repercussion disappears for the benefit of a control defined in the contract of concession.

Besides the annual accounts and the annual report, contract-holders have to send to the Finance minister, the report of the statutory auditors as well as the consolidated accounts.

The exercise of the control is made by a government Commissioner named with the contract-holder for duration not being able to exceed four years.

Tax system of the arbitrage in the Labour Law

The practice of the social arbitrage in Morocco will know a new bend with the new applicable tax system.

The principle of the exemption in the imposition (taxation) on the incomes (IGR) of the allowances for damages granted (tuned) by the courts in case of dismissal incited during decades number of companies to conclude systematically social arbitrages to avoid the transfer of the IGR on severance pays (redundancy payments).

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This principle was appreciably eased by the finance law current as from January 1st, 2004 and which foresees that the exemption applies only within the limits of the legal ceilings recently established by the new work regulation and which forbid henceforth any chance in forecast of the financial risk bound (connected) to the social dispute (cf QUID JURIS N°5).

This policy certainly favourable to the fiscal administration can make less attractive the social appeal to arbitration and favour the increase of disputes in Labour Law.

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