

Legislative and Case Law Updates in Labor Law

Client Update – June 2026

Dear Clients,

We invite you to review recent case law developments in employment law. This update addresses, among other matters, cross-border insolvency and employees' entitlement to payment from the National Insurance Institute, as well as the restitution of severance funds to the employer.

The National Labor Court held:

New Horizon Reform – Salary Conversion for ShL"H Teachers – The National Labor Court accepted the State's appeal and held that there is no basis for carrying out a renewed salary conversion for ShL"H teachers upon their return to work under the terms of the "New Horizon" reform by virtue of Section 49A of the relevant agreements. The Court held that this was a limited transitional provision, intended for a defined group of teaching employees, and not a general mechanism applicable to anyone moving from the "old world" to "New Horizon." At the same time, the Court ordered that an exceptions committee be convened to consider the respondents' matter and the full range of their arguments. For employers, particularly in the education system and the public sector, the judgment clarifies that not every transition between employment or pay tracks justifies reopening the conversion mechanism; however, in appropriate cases, recourse to the exceptions track should be considered (Labor Appeal 40643-05-25 **State of Israel v. Bnei Ben Ovadia et al.**, dated May 5, 2026).

The District Court held:

Insolvency – Without an Israeli Commencement Order, Employees Are Not Entitled to a National Insurance Benefit – The Tel Aviv District Court dismissed an employee's application

to receive a benefit from the National Insurance Institute in respect of his employment by an Israeli company that had entered insolvency proceedings in the United States, where a plan whose substance was the liquidation of the company was approved. The Court held that, so long as no commencement order has been issued in Israel against the company, there is no entitlement to file a proof of debt with the National Insurance Institute, even if the foreign proceeding has been recognized in Israel as a foreign non-main proceeding. The judgment emphasizes that recognition of a foreign proceeding is not equivalent to the issuance of an Israeli commencement order. As a practical matter, in cases of cross-border insolvency, it should not be assumed that the existence of a recognized foreign proceeding will, in and of itself, enable employees to exhaust their rights vis-à-vis the National Insurance Institute (Insolvency Case (Tel Aviv) 36313-08-23 **Vasto Ltd. v. the Commissioner of Insolvency Proceedings and Economic Rehabilitation et al.**, dated May 4, 2026).

The Regional Labor Courts held:

1. **Allegations of Sexual Harassment – Work Accident** – The Jerusalem Regional Labor Court recognized as a work injury a psychological condition suffered by an employee following two unusual workplace incidents in which allegations of sexual harassment and sexual assault were leveled against him. The Court held that recourse to psychiatric treatment may be regarded as psychological harm for the purpose of recognition as a work accident, provided that a causal link exists between the unusual event and the injury. The message for employers is that the manner in which an inquiry or disciplinary proceeding is conducted may have consequences both in the employment-relations sphere and in the social-insurance sphere (National Insurance Case (Jerusalem) 47703-02-23 **Yosef Mazor v. National Insurance Institute**, dated March 31, 2026).
2. **Hearing – A Material Defect Gives Rise to Compensation Even Where the Grounds for Dismissal Are Substantive** – The Tel Aviv Regional Labor Court rejected most of the employee's claims of discrimination on the basis of origin and workplace abuse, and held that the dismissal stemmed from professional considerations rather than discrimination. Nevertheless, the Court held that inappropriate remarks had been made toward the employee and that the hearing process was defective: the dismissal decision had been made in advance, the summons letter contained only general allegations, it was sent late, and it did not state that the employee was entitled to attend with accompaniment

or representation. Accordingly, the State was ordered to pay total compensation in the amount of NIS 35,000. The judgment illustrates that even where there is substantive justification for termination of employment, a sham hearing or abusive conduct may create separate monetary exposure (Labor Case (Tel Aviv) 2415-06-19 **Digito Nahman v. State of Israel et al.**, dated April 6, 2026).

3. **Enhanced Severance Pay – Profits Accrued in the Severance Fund May Be Taken into Account** – The Jerusalem Regional Labor Court dismissed the claims of two former employees and held that the employer was entitled to take into account surplus funds and profits accrued in the severance fund for the purpose of calculating enhanced severance pay. The Court held that where the amounts accumulated in the fund exceed the statutory severance entitlement, the surplus may be taken into account as part of the overall calculation of retirement terms that exceed the requirements of law (Labor Case (Jerusalem) 23852-11-22; **Rachel Paz and Nila Elkayim v. JDC Israel**, dated May 4, 2026).
4. **Withdrawal of Severance Funds by the Employer** – The Haifa Regional Labor Court held that, although the employee resigned without being deemed dismissed, the employer was not entitled to withdraw the severance funds that had been deposited with the insurance company in the employee's name. The Court held that the Extension Order for Comprehensive Pension Insurance in the Economy prevails over the contractual arrangement, and that provisions in the employment agreement and the employee's declaration that sought to permit restitution to the employer are unenforceable because they derogate from mandatory rights. The judgment clarifies that even where the circumstances of termination do not entitle the employee to full severance pay, this does not mean that the employer has an automatic right to restitution of the severance funds (Pension Case (Haifa) 6539-04-22 **Cargo Amford Ltd. v. Tal Hillel et al.**, dated May 5, 2026).
5. **Reserve Duty – Employment Committee Lacks Jurisdiction to Determine Whether Employment Relations Existed** – The Tel Aviv Regional Labor Court held that the committee lacks jurisdiction to determine the preliminary question of whether employment relations existed between the parties, and that the committee exceeded its authority by addressing that issue. However, since the company raised the jurisdictional

argument at a late stage, after conducting a full proceeding before the committee, it was ordered to pay costs in the amount of NIS 15,000. The judgment highlights both the limits of the jurisdiction of employment committees and the importance of raising threshold arguments in a timely manner (Administrative Labor Appeal (Tel Aviv) 37402-08-25 **Gal Ariel Construction and Investments Ltd. v. Elisha Nekev et al.**, dated May 11, 2026).

The judgments reviewed in this update indicate that the labor courts continue to examine the practical and substantive reality of employment relations and of the exercise of managerial authority, rather than being satisfied with formal arrangements or institutional labels.

At the same time, the courts continue to insist on the integrity of hearing procedures and on safeguarding employees' rights in respect of funds accumulated in provident and severance funds.

From a practical standpoint, employers are advised to refresh their internal hearing and inquiry procedures, and to examine whether their employment agreements, retirement documents, and provisions relating to severance funds are aligned with applicable law and case law.

We remain at your disposal for any questions in the fields of labor law and collective labor relations.

This memorandum does not constitute legal advice and is provided as a service to our clients.



Adv. Menachem (Hemi) Lapidor
Joint Head of the Labor Law Department
hemil@agmon-law.co.il



Adv. Dganit Lapidor – Singer
Joint Head of the Labor Law Department
dganit@agmon-law.co.il



Adv. Michal Markovitz-Blachar
Joint Head of the Labor Law Department
michalmb@agmon-law.co.il



Adv. Netanel (Nati) Haim
Litigation Department
head of the white-collar practice
nati@agmon-law.co.il



Adv. Guy Azulay
Insolvency Department
guyaz@agmon-law.co.il



Jerusalem

Hebrew Campus, Bld. 2,
Yeshayahu Leibovitz 30
T. +972-2-5607607
F. +972-2-5639948

Tel-Aviv

Electra Tower, 98 Yigal Alon St.
T. +972-3-6078607
F. +972-3-6078666

Be'er Sheva

Gav Yam Bld. 77 Ha'energia st.
T. +972-3-6071450
F. +972-8-6155780

Sydney, Australia

50 Carrington st. NSW 2000
T. +61-2-90606206