

Flirting with a woman could get one jailed, deported



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LEGAL VIEW

Q: I am a senior business executive based in Dubai. Recently, I attended a meeting at an office and, when it was over, I initiated a conversation with the female receptionist there. I complimented her for her beauty and invited her to join me for coffee. The following day, the said receptionist was waiting downstairs with the police. I was confronted by the cops and made aware that the woman had filed a criminal complaint against me. Have I committed an offence? Will the complaint filed against me stand during a court trial?

A: Pursuant to the first part of your query, it should be noted that disrespecting women and any act against the honour and dignity of women is not in accordance with the culture and tradition of the UAE.

As per the provisions of Federal Law No. 3 of 1987 in issuance of the Penal Code of UAE (Penal Code), it is an offence to obstruct a woman in a way which would result in the violation of her prudence by word, deed or by any other means. This is in accordance with Article 359 of the Penal Code, which states:

“Any person who obstructs a female in such a manner as to violate her prudence by word, deed or by using information technology or any other means shall be punished by a jail term not exceeding one year and a fine not exceeding Dh10,000, or by either of these two penalties.”

Further, if the evidence provided by the complainant is accepted by the public prosecutor and, if you are convicted, the court may issue an order of deportation against you after serving the sentence issued. This is in accordance with Article 121 of the Penal Code, which states:

“If a foreigner has been sentenced to a custodial penalty in a felony or misdemeanour, the court may call in its judgment for the deportation of the convicted foreigner from the state. Deportation orders shall also apply to felonies perpetrated on the honour.

“The court may, in cases of misdemeanours, order the commutation of a custodial penalty stated for misdemeanour to deportation.”

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Any person who obstructs a female in such a manner as to violate her prudence by word, deed or any other means shall be punished

Employer may face penalty if employee overstays after visa is cancelled

Q: An employee resigns from his employment and, thereafter, receives his residence visa cancellation form wherein his employer stipulates that he must leave the country or change the status of his visa within a specified period. If the employee does not leave or does not change his visa status and overstays in the UAE, will his sponsor have the right to file an absconding report against him?

A: At the outset, it may be noted that the regulations pertaining to the immigration and residence of foreigners residing in the UAE are stipulated under Federal Law No. (6) for 1973 concerning immigration and residence as amended by virtue of Law No. (7) of 1985, Law No. (13) of 1996 and Federal Decree Law No. (17) of 2017 (Federal Residency Law).

It is presumed that the employer (the sponsor) and the employee are subject to the provisions of Ministerial Resolution No. (52) of 1989 on the rules and procedures to be adopted at the work permits sections with respect to the recruitment of non-national employees for the employment in UAE (Ministerial Resolution No. 52 of 1989) and Ministerial Resolution No. (721) of 2006 on Escape Reports Procedures (Ministerial Resolution No. 721 of 2006).

Pursuant to your query, note that an employee whose resident visa has been revoked or has expired must leave the UAE. This is in accordance with Article 19 of the Federal Residency Law, which states:

“Foreigners who have obtained residence licence shall be subject to the provisions of Article (11) herein. They must leave the country upon the revocation of their residence permit or the expiration of its term.”

It may be further noted that that an employer is under an obligation to repatriate an employee at the end of the his or her contract. This is in accordance with Article 6 (d) of Ministerial Resolution No. 52 of 1989, which states:

“An undertaking from the employer to the effect that he shall send back the recruited employee to the country where he was recruited upon the completion of this job and upon the cancellation of his sponsorship.”

Therefore, in the event the employee's contract is terminated, the employer is under an obligation to ensure that the terminated employee is repatriated to his home country.

However, if the employee refuses to be repatriated to his home country and the employer fails to file a complaint against the employee for absconding, the employer may be penalised if the person is found overstaying in the UAE.

This is in accordance with Article 34 (1) of the Federal Residency Law, which states:

“A fine of Dh50,000 shall be imposed on anyone who has used or accommodated a foreigner in violation of the provisions of this law. The penalty shall be imprisonment and a fine of Dh50,000 in case of return to the same act.”

Therefore, the employer is liable to report an

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The employer is liable to report an absconding employee by lodging a complaint. Once filed, this may result in the issuance of an escape report against the employee.

absconding employee by lodging a complaint against the person. Further, filing such a complaint may result in an escape report being issued against the employee. This is in accordance with Article 1 of Ministerial Resolution No. 721 of 2006, which states:

“An escape report is applied on the case of the employee who has stopped working for more than seven consecutive days if the employer pledged that he does not know his whereabouts or has a legitimate reason for his absence in accordance with the provisions of this Ministerial Resolution.”

It may be noted that an employer has the right to file an escape report against a terminated employee who refuses to be repatriated to his home country.

The employer may lodge a complaint with the Ministry of Human Resources and Emiratization (Mohre).

Thereafter, based on the instructions issued by Mohre, the employer may submit the escape report to the General Directorate of Residency and Foreigners Affairs in the emirate wherein the employee's residence visa was issued.

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