

# Off-Duty Misconduct and Termination of Employment

A New Frontier in Ugandan Labor Law



## Introduction

The boundaries of employer authority over employee conduct have traditionally been confined to the workplace. However, **the Agusi Franco vs International Institute of Tropical Agriculture, LDR No.277 of 2021 case** has significantly expanded this scope, establishing a precedent for holding employees accountable for off-duty misconduct that impacts the employment relationship. This case serves as a pivotal point in understanding the delicate balance between an individual's personal life and their professional obligations. This article delves into the facts of the case, the court's decision, and its implications for Ugandan labor law.



## The Accusation and Termination

Agusi Franco was an Administrative Assistant and Supervisor at the International Institute of Tropical Agriculture (IITA). He engaged in sexual harassment of a subordinate outside of working hours. The victim reported the incident to the employer. IITA initiated disciplinary proceedings against Franco, culminating in his dismissal.

## The Legal Battle and Court's Decision

Franco challenged the termination, arguing that the misconduct occurred outside working hours and, therefore, did not justify dismissal. The court upheld the employer's decision to terminate Franco's employment. It acknowledged the employer's prerogative to dismiss an employee for serious misconduct, even if it occurs outside of working hours, provided it has a relevant connection to the employee's duties.

The court adopted a two-part test to determine whether off-duty misconduct justifies dismissal:

1. Did the employee engage in the alleged actions?
2. Did these actions have any relevant connection to the performance of their duties as an employee?

Given Franco's admission to the misconduct, the court focused on the second part of the test. It found that as a supervisor, Franco had a duty of care towards his subordinates, including the obligation to protect them from harassment. His actions breached this duty and undermined the trust and confidence placed in him by the employer. Consequently, the court found a sufficient connection between the misconduct and Franco's employment, justifying the dismissal.

This decision aligns with the Australian case of **B. Rose vs Telstra Corporation Limited (Uno 20564 of 1998)**, which provided a precedent for considering off-duty misconduct in termination cases.



## Implications and Looking Beyond the Verdict

The court's decision in *Agusi Franco* represents a significant departure from the traditional view of employer authority. By recognizing that off-duty misconduct can warrant dismissal, the court has broadened the grounds for termination. While this decision provides employers with greater flexibility in managing employee behavior, it also raises concerns about the potential for abuse and the erosion of employee privacy rights.

The court's emphasis on the "relevant connection" between the misconduct and the employee's duties is a crucial factor. However, the exact parameters of this connection remain to be defined through future case law. Employers must exercise caution when considering disciplinary action based on off-duty conduct to ensure that their decisions are fair, reasonable, and proportionate.

This case highlights the importance of clear and comprehensive workplace policies that address employee conduct both inside and outside of work. Employers should also provide training to employees to help them understand their obligations and responsibilities.

The *Agusi Franco* case has far-reaching implications for Ugandan labor law. Employers now have greater latitude to address employee misconduct that occurs outside the workplace, provided it meets the test of having a relevant connection to employment. This decision underscores the importance of comprehensive workplace policies that address harassment, discrimination, and other forms of misconduct, both on and off duty.

Employees, on the other hand, must be mindful of their conduct, recognizing that actions outside of work can have consequences for their employment. It is essential to maintain professional boundaries and conduct oneself in a manner that upholds the employer's reputation.

## Conclusion

The Agusi Franco case marks a turning point in Ugandan labor law, expanding the scope of employer authority over employee conduct. While the decision is a step in the right direction in terms of protecting employees from harassment, it is imperative to strike a balance between employer rights and employee protections. Clear guidelines and judicial precedents will be crucial in shaping the contours of this new legal landscape.

## Director's note



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