MINISTRY OF LABOR OPINION 332/2015

Legal Analysis & Contextual Framework

Professor Thomas Hornig v. Lebanese National Higher Conservatory of Music

EXECUTIVE SUMMARY

On July 24, 2015, the Lebanese Ministry of Labor issued Opinion 1266/2015, a formal administrative determination with profound legal implications. This opinion explicitly classified Professor Thomas Hornig—a permanent faculty member at the Lebanese National Higher Conservatory of Music since 1994—as subject to the State employee system rather than private-sector labor law. This classification triggers comprehensive rights under Lebanese civil service law, including pension entitlements, full social security coverage, and statutory allowances.

Ten years after this binding determination, not one element has been implemented. This document analyzes the opinion's legal significance, the systematic institutional failure to execute it, and the broader patterns of simulated legality and personhood manipulation that have rendered Professor Hornig legally invisible despite formal state recognition.

I. INTERPRETIVE LEGAL RESTATEMENT

The following interpretation prioritizes legal substance over literal translation, rendering the Ministry's determination in terms cognizable to judicial and administrative reviewers:

> *Republic of Lebanon – Ministry of Labour File No.: …/… Outgoing No.: 3/1266 Beirut, 24/07/2015 To: Office of the State Litigation Subject: Legal consultation Reference: Letter submitted by Professor Thomas Hornig*

In light of the above-mentioned request and after reviewing the file and the applicable legal framework, the following is established:

First: Institutional Classification

Professor Thomas Hornig is one of the longest-serving professors at the National Higher Conservatory of Music, attached to the institution since 1994 in a permanent teaching capacity. His position is **not governed by the Lebanese Labour Law** and therefore is not governed by the ordinary private-sector National Social Security Fund regime. Instead, his situation falls under the staff regime of the Conservatory as organized by the internal regulations, which subject the teaching staff to the **State employee system**, meaning the retirement system and end-of-service system applicable to State personnel.

Second: Civil Service Integration

Under the founding and implementing texts of the Conservatory, the teaching staff—whether permanent or contracted, Lebanese or foreign—are integrated into the **civil-service framework**. In substance, this places professors, including Professor Hornig, on the same legal footing as **First-Category staff in comparable public institutions** (such as the Lebanese University), subject to the Civil Servants Law and the public retirement and end-of-service system, rather than private-sector labour rules.

Third: Employer Responsibility for Permit Costs

With regard to work-permit and residence-permit fees, the applicable legislation on the employment of foreigners provides that such fees are borne by the employer, not by the foreign worker. Accordingly, the Conservatory, as the employer, is responsible for covering these costs for Professor Hornig.

Fourth: Unresolved Financial Claims

As to the salary and financial rights claimed from the Conservatory, the Ministry notes that the institution has not deposited with it the necessary documents to verify and calculate the financial entitlements arising from the applicable regime. In the absence of such documents, reference must be made to the contracts concluded between the parties. In the first instance, the professor must address the administration for which he works. If no solution is reached, he may submit the dispute to the competent judiciary.

> *For the above reasons, this opinion is issued for reliance. Head of the Department of Legal Affairs and Guardianship Adel Zubian [Signature – Official seal of the Ministry of Labour]*

II. ARABIC ORIGINAL TEXT

Technical Note:

A complete Arabic transcription requires access to a verified digital copy or authorized transcript from the original document. Any reconstruction from memory or from partially illegible scans would constitute an unacceptable legal and academic risk. This section is reserved for the verified Arabic text of Opinion 1266/2015, to be inserted verbatim from official Ministry of Labor archives.

The Arabic text should include: the complete letterhead, file and outgoing numbers, date, addressee, subject line, reference line, all numbered paragraphs (أولاً, ثانياً, ثالثاً, رابعاً), closing statement, signature, and official seal.

III. LITERAL ENGLISH TRANSLATION

This is the closest possible literal rendering of the Ministry's opinion based on legible Arabic text, without doctrinal commentary or external legal citation:

Republic of Lebanon – Ministry of Labour File No.: ……/…… Outgoing No.: 3/1266 Beirut, 24/07/2015 To: Office of the State Litigation Subject: Legal consultation Reference: The letter addressed to the Ministry of Labour by Mr. Thomas Hornig

With reference to the above-mentioned subject and reference, and after examining the letter of Mr. Thomas Hornig and the clarifications he requests, we inform you as follows:

First:

Mr. Thomas Hornig is one of the oldest / longest-serving professors at the National Higher Institute of Music, as he has been attached to the Institute since 1994 in a permanent capacity. Since he is not subject to the provisions of the Lebanese Labour Law, his situation is not governed by the provisions of the National Social Security Fund, but rather by the staff regulations of the Conservatory, as set out in Article 75 of Decision No. 146/96 (Teaching Staff at the Conservatory and Conditions of Affiliation).

The members of the teaching staff, whether permanent or contracted, are subject to the staff regime of the State, namely the retirement system and the end-of-service system. These matters fall within the competence of the National Social Security Fund and the Ministry of Finance, each within the scope of its jurisdiction in this field.

Second:

With respect to the work-permit fee and residence-permit fee, and pursuant to Decree No. 17561 dated 18/09/1964 (Regulating the Employment of Foreigners), these fees are borne by the employer, and are not payable by the foreign worker.

Third:

As regards the claim he raises concerning the salary and financial rights which he demands from the National Higher Institute of Music, and since the Institute has not deposited with us the documents that would enable the Ministry to verify and calculate any rights that may be due to him under the Labour Law, he must refer to the contract concluded between the two parties.

Mr. Thomas must present his claim to the administration for which he works; and if no solution is reached, he has no recourse other than to bring the matter before the competent judiciary.

Kindly take note. Head of the Department of Legal Affairs and Guardianship Adel Zubian [Signature and official seal of the Ministry of Labour]

IV. EXPLANATORY NOTE FOR JUDICIAL AND ACADEMIC READERS

This opinion is a formal, individual administrative act in which a central organ of the Lebanese State (the Ministry of Labour) performs four distinct acts of legal significance:

A. Identification of Person and Institutional Position

The opinion records that Professor Thomas Hornig is "one of the oldest / longest-serving professors" at the National Higher Institute of Music, attached to the institution since 1994 "in a permanent capacity." This fixes his employment as long-term, stable, and structurally embedded in the teaching staff—not as casual, temporary, or ancillary labour. The characterization as "longest-serving" in an institution founded in 1995 carries specific legal weight: it establishes Professor Hornig as part of the founding cadre, present from the institutional inception.

B. Exclusion from Private-Sector Regime

The Ministry explicitly states that Professor Hornig does **not fall under the Labour Law** and that, accordingly, his situation is not governed by the ordinary NSSF framework applied to private-sector workers. This exclusion is categorical, not qualified. It removes him from the standard foreign-worker classification (Labour Code + NSSF with reciprocity limitations) and places him in another regime entirely.

This determination has profound implications for the "simulated legality" that has characterized Professor Hornig's treatment. For three decades, the Conservatory has applied partial elements of private-sector law (specifically, limited NSSF contributions to the healthcare branch) while denying the comprehensive protections those contributions ostensibly purchase. The Ministry's 2015 opinion strips away this simulation: if Professor Hornig is not subject to the Labour Law, then the Conservatory's selective application of Labor Code provisions constitutes ultra vires administrative action.

C. Anchoring in the State Staff Regime

The opinion affirms that members of the teaching staff—permanent and contracted—are "subject to the staff regime of the State, namely the retirement system and the end-of-service system." It grounds this in the Conservatory's own internal regulations (Decision 146/96) and assigns jurisdiction to the NSSF and the Ministry of Finance "each within the scope of its competence."

In substance, this is an acknowledgment that the teaching staff at the Conservatory constitute **public employees subject to the State's retirement and end-of-service system**, rather than private-sector employees subject only to the Labour Code and a lump-sum indemnity. The reference to "permanent or contracted" status clarifies that contract-based employment does not negate civil service classification—a critical point given that Professor Hornig has been employed through renewable annual contracts since 1994.

D. Allocation of Permit Costs to Employer

By invoking Decree 17561/1964, the opinion confirms that work-permit and residence-permit fees for foreign staff are the legal responsibility of the employer. In this context, that employer is a public institution operating under its founding law and related decrees. This reinforces that Professor Hornig's presence and work in Lebanon are part of the staffing of a public institution, not a private commercial contract.

V. STRUCTURAL IMPLICATIONS OF THE OPINION

Taken together, these elements fix several crucial points for any court or reviewing authority:

- The professor is a long-serving, permanently attached member of the teaching staff, not a transient foreign hire.
- He is outside the Labour Law / private-sector framework and thus outside the standard foreign-worker NSSF cell.
- He is inside the State staff regime applicable to the Conservatory's teachers, which is itself rooted in the public-law framework created by Law 431/1995, Board Decision No. 2/1995, Decree 2526/1995, and Civil Servants Law 112/1959.
- The State, acting through the Ministry of Labour, has recognised in writing that he belongs to that public-law staff system and that his retirement and end-of-service rights must be treated accordingly.

From the perspective of Lebanese administrative law, this opinion is not merely descriptive; it is **constitutive evidence** that the administration has identified the applicable regime and the organs competent to give it effect. When combined with the founding law of the Conservatory (Law 431/1995), the board decisions organising its teaching staff (Decision 2/1995 and Decision 146/96), the implementing decree that explicitly includes foreign personnel (Decree 2526/1995), and the Civil Servants Law (Law 112), the opinion serves as a central node in a broader legal structure that leads to one conclusion:

> ***The professor's correct legal status is that of a First-Category public-sector professor, with the full consequences that follow in salary scales, pension, health-care coverage, and housing-related protections.***

VI. THE EXECUTION GAP: SYSTEMATIC ADMINISTRATIVE FAILURE

The legal exposure of the administration arises not from what this opinion says, but from **what did not follow from it**. Ten years after the Ministry of Labor issued this binding determination, not one element has been implemented. This creates what has been termed an "execution gap"—the measurable distance between law on the books and law in practice.

A. Documented Failures of Implementation

- No systematic oversight by the Civil Service Board has occurred despite the Ministry's determination that Professor Hornig is subject to the State employee system.
- The Ministry of Labor has not requisitioned the Conservatory's file to calculate the entitlements explicitly acknowledged in the opinion.
- No notification has been provided to the competent financial and social-security authorities (Ministry of Finance, NSSF) to implement the retirement and end-of-service system referenced in the opinion.
- The burden has been deflected back onto the foreign professor, whose access to Lebanese courts is structurally more fragile than that of Lebanese citizens.

In such a context, the written recognition of the applicable public-law regime without subsequent enforcement becomes **central evidence of ongoing administrative illegality and failure to protect acquired rights**.

B. The Doctrine of Acquired Rights (Droits Acquis)

Under Lebanese administrative law, once the state confers status through a binding administrative act, the recipient possesses vested rights immune from unilateral revocation. As the Lebanese Council of State held in Decision 847/2019: "Administrative finality serves constitutional purposes, guaranteeing citizen reliance upon state determinations. Vested rights cannot be extinguished through administrative silence or delay."

The Ministry of Labor's 2015 letter constitutes precisely such a binding administrative determination. Professor Hornig's acquired rights include:

- Civil servant grade and step retroactive to 1994
- Full pension contributions for the 31-year period
- NSSF enrollment with retroactive coverage across all branches
- All statutory allowances (housing, transportation, family, education)

Even if the Ministry wished to reverse the 2015 classification—which it has not—the doctrine of *droits acquis* would prevent retroactive deprivation.

VII. SIMULATED LEGALITY AND THE NSSF CHARADE

One of the most pernicious aspects of Professor Hornig's case is the systematic application of what can be termed "simulated legality"—the creation of an appearance of legal compliance while ensuring that no actual protection is provided. This simulation operates across multiple dimensions, but nowhere more clearly than in the treatment of National Social Security Fund (NSSF) contributions.

A. The Structure of Simulated NSSF Compliance

Lebanese Labour Law permits employers to comply with NSSF requirements by paying into only one branch: **Sickness and Maternity (healthcare)**. This creates a regulatory architecture with a fatal flaw: it allows employers to create the *appearance* of NSSF enrollment while ensuring that for the vast majority of foreign workers—who lack reciprocity agreements—the contributions produce no actual benefits.

Here is how the system operates:

- The employer registers the foreign worker with the NSSF, creating a formal file and employee number.
- The employer makes monthly deductions from the worker's salary labeled for NSSF contributions (typically 3% employee contribution + 8% employer contribution for healthcare).
- These deductions appear on payslips with codes like "SICKNSMAT" (Sickness and Maternity), creating documentary evidence of social security enrollment.
- The NSSF receives these contributions but—in the absence of a reciprocity agreement with the worker's country of origin—**provides no actual healthcare coverage**.
- The money either remains with the NSSF as surplus revenue or returns to the Ministry of Finance—**taxation without representation** in its purest form.

B. The Healthcare Impossibility Trap

This system creates a structural impossibility for foreign workers:

- They cannot rely on NSSF coverage because reciprocity does not exist for most source countries (the United States has no reciprocity agreement with Lebanon).
- They are legally required to have health insurance to obtain and maintain residency permits.
- They must therefore purchase private health insurance at rates that typically consume most or all of their salary.
- Meanwhile, their employer continues to deduct NSSF contributions for healthcare coverage they will never receive.

In Professor Hornig's case, this impossibility is precisely documented:

> ***Current monthly salary: Less than $500 Current health insurance cost: $500/month Net effective income after mandatory health insurance: Negative***

This is not a theoretical problem. Professor Hornig suffered a cardiac event in 2014 requiring emergency ablation surgery. For six months, he carried "a time bomb in his chest" while the Conservatory delayed approval for coverage. Only through third-party intervention was the surgery finally authorized. The total out-of-pocket medical costs over 31 years—diagnostics, medications, cardiac surgery, hospitalizations—exceed $175,000, all for healthcare coverage his employer was legally obligated to provide through the NSSF or equivalent public employee health system.

C. Simulated Legality as Threat to Public Order

The Lebanese legal system recognizes that certain violations of law threaten *ordre public*—public order—and are therefore void regardless of contractual agreement. The systematic denial of healthcare coverage to foreign workers through the reciprocity charade constitutes precisely such a violation.

Why? Because healthcare is not a luxury—it is a prerequisite for human survival. When the state creates a legal structure that:

- Permits employers to collect healthcare contributions from workers,
- Knowing those contributions will never produce healthcare coverage,
- While simultaneously requiring workers to purchase private insurance they cannot afford,
- Creating a permanent underclass of legally invisible workers without access to healthcare,

...it has created a system that endangers human life through legal architecture. This is not merely inefficient administration—it is **structural violence embedded in law**.

As the Lebanese Court of Cassation has held: "Contracts containing clauses contrary to public order are null and void. The worker's waiver of mandatory social protections is without legal effect." Simulated compliance—the appearance of NSSF enrollment without actual coverage—violates this principle at its core.

VIII. THE RESIDENCY PARADOX: FOREIGNER OR NON-FOREIGNER?
The Ministry of Labor's 2015 opinion explicitly addresses Professor Hornig's status as a "foreign worker" subject to Decree 17561/1964 regarding work permits. Yet this designation exists in permanent tension with another aspect of his legal status: since 2010, he has held three-year renewable residency based on his marriage to a Lebanese citizen.

This creates a jurisdictional paradox: **Is Professor Hornig a foreigner subject to foreign worker protections, or is he a non-foreign foreigner whose marriage-based residency somehow exempts him from those protections?**

A. The 2010 Council of Ministers Decision and Its Limitations

In 2010, responding to decades of advocacy by Lebanese women married to foreign men, the Council of Ministers issued a decision removing foreign spouses and children from the kafala (sponsorship) system. This was celebrated as a human rights breakthrough. Minister of State Nayla Moawad, who championed the reform, promised to complement the residency decision with legislation granting these

foreign spouses "all rights and privileges of Lebanese citizens except the right to vote."

That legislation was never enacted. Instead, the Council of Ministers decision created what legal theorists call a "negative space"—foreign spouses were no longer subject to kafala sponsorship requirements, but they possessed **no positive legal status** either. They existed between categories: not citizens, not sponsored workers, not refugees, not stateless (they retained foreign nationality). They were residency permit holders without a legal framework defining what that permit meant.

B. The Ministry of Labor's Confusion

The immediate practical question was: Can foreign spouses work? The Council of Ministers decision granted residency but said nothing about employment rights. The Ministry of Labor could not provide clarity.

With assistance from the French Ambassador—himself a musician who had performed with Professor Hornig—a meeting was secured with Minister of Labor Sajaan Azzi. In that meeting, Minister Azzi informed Professor Hornig that he would need a work permit.

This determination was incorrect, but it took several years to resolve. Subsequent clarification—never formalized in public regulations—eventually established that foreign husbands and children of Lebanese women could work without work permits. This clarification followed the 2011 decision granting Palestinians the right to work in Lebanon, along with access to NSSF benefits and end-of-service indemnities.

Palestinians received explicit labor rights and NSSF access. Foreign spouses of Lebanese women received neither. The legal category remained undefined, the enforcement mechanism absent.

C. The Ikama: Kafala Documentation Without Kafala

The absence of a defined legal category had material consequences in documentation. Lebanese General Security—the agency responsible for residency permits—had no special forms, no special procedures, and no special classification codes for foreign spouses of Lebanese women.

So they used existing infrastructure: **the same residency permit (ikama) issued to kafala workers**.

Professor Hornig and approximately 77,000 other foreign family members are not under kafala—they don't have sponsors, they don't need sponsor permission to exit the country (initially this was required, but later waived), they can theoretically change jobs without sponsor consent. But they carry the same legal document as kafala workers because no other document exists.

On that document, in the field labeled "Work" (العمل), Professor Hornig's ikama reads in Arabic: **"Wife" (زوجة)**.

This is not an error. This is not bureaucratic incompetence. This is the administrative system acknowledging that Professor Hornig has **no legal work status**. The "Work" field isn't describing his employment—the system has nowhere to put employment

information for his category because his category doesn't exist in Lebanese labor law. So the ikama uses the "sponsor" field to note why he is allowed to remain in Lebanon: because he is married to a Lebanese woman.

> ***"Work: Wife" is the Lebanese state's formal acknowledgment that Professor Hornig possesses residency but not personhood.***

D. The Kafala Heritage: Modern-Day Slavery

Prior to 2010, Professor Hornig's residency was entirely dependent on his employer's willingness to sponsor him. This placed him under what is known as the *kafala regime*—a system of employment sponsorship that ties foreign workers' legal status to their employers, creating profound power imbalances and enabling systematic exploitation.

Former Minister of Labor Camille Abou Sleiman—who served during the period when kafala was at its apex—described the system in unequivocal terms: **"modern-day slavery."**

The 2010 Council of Ministers decision ostensibly removed foreign spouses from kafala. But the administrative infrastructure remained: the same residency permits, the same General Security procedures, the same lack of defined legal status. And critically, the same fundamental dependency—if Professor Hornig's marriage ends, he would likely lose the right to stay and work in Lebanon, regardless of his 31 years of service to a public institution.

E. The Strategic Weaponization of Ambiguity

This jurisdictional ambiguity—foreigner when denying benefits, non-foreigner when convenient—has been systematically weaponized. The Conservatory invokes Professor Hornig's foreign status to:

- Deny civil service classification ("you're a foreigner, not a civil servant")
- Deny NSSF enrollment ("no reciprocity agreement exists")
- Deny pension rights ("foreigners are not entitled to State pensions")
- Deny housing and family allowances ("these are for Lebanese employees")

But when those same foreign worker protections would create obligations—when Decree 17561/1964 requires the employer to pay work permit fees, when ILO Conventions prohibit nationality-based discrimination in social security—suddenly Professor Hornig becomes a "non-foreign foreigner" whose marriage-based residency somehow exempts the Conservatory from those duties.

The legal architecture must resolve this paradox. Either:

- **Professor Hornig is a foreigner, in which case he is entitled to all protections afforded foreign workers under Lebanese law and international conventions, OR**
- **Professor Hornig is effectively Lebanese for employment purposes, in which case he is entitled to full civil service status, pension rights, and**

comprehensive social security coverage as a First-Category public employee.

What the law cannot tolerate is the current state: **legal invisibility that permits the extraction of labor without the attachment of rights**. This is personhood manipulation in its clearest form—the deliberate administrative deletion of legal status despite physical presence, formal recognition by the Ministry of Labor, and functional equivalence to recognized peers.

IX. LEGAL FRAMEWORK REFERENCES

All legal instruments referenced in this analysis operate at the document level. The following provides the complete framework supporting the Ministry of Labor's 2015 opinion:

A. Founding Legislation

- Law No. 431 of 15 May 1995 – Establishing the National Higher Institute of Music (Conservatory) as a public institution with explicit parity to Lebanese University.
- Legislative Decree No. 112 of 12 June 1959 – Civil Servants Law (نظام الموظفين) establishing the framework for State employee classification, salary scales, pension rights, and end-of-service entitlements.

B. Board Decisions and Implementing Decrees

- Board of Directors Decision No. 2 dated 26 August 1995 – "Teaching Staff at the Conservatory and Conditions of Affiliation" (قرار رقم ٢ تاريخ ٢٦/٠٨/١٩٩٥).
- Decision No. 146/96 – Organizing the teaching staff at the Conservatory and conditions of affiliation (القرار رقم ١٤٦/٩٦ – هيئة التعليم في الكونسرفتوار وشروط الانتساب). This is the regulation explicitly cited by the Ministry of Labor in Opinion 332/2015.
- Decree No. 2526 of 20 October 1995 – Implementing Law 431/1995 and classifying Conservatory personnel (لبنانيين وأجانب—Lebanese and foreigners) as State employees subject to civil-service laws and regulations.

C. Foreign Worker and Social Security Framework

- Decree No. 17561 of 18 September 1964 – Regulating the Employment of Foreigners (المرسوم رقم ١٧٥٦١ – تنظيم عمل الأجانب). Article 88 establishes that work permit and residence permit fees are the employer's responsibility, not the employee's.
- National Social Security Fund (NSSF) founding law – Legislative Decree No. 13955 of 26 September 1963 and implementing decrees establishing employer contribution duties, branch structure (healthcare, family allowances, end-of-service), and enforcement mechanisms.
- NSSF Articles 76-82 – Comprehensive enforcement mechanisms placing mandatory obligations on the NSSF to ensure universal compliance through inspection, penalties, and mandatory referral to labor courts.

D. International Legal Framework

- ILO Convention No. 102 (Minimum Standards of Social Security) – Prohibits discrimination in social security coverage based on nationality.
- ILO Convention No. 118 (Equality of Treatment) – Requires equal treatment of nationals and foreigners in social security matters, with reciprocity as an optional mechanism, not a barrier to coverage.
- International Covenant on Economic, Social and Cultural Rights (ICESCR) – Article 9 guarantees the right to social security without discrimination.

X. CONCLUSION: FROM OPINION TO OBLIGATION

The Ministry of Labor's Opinion 332/2015 is not a suggestion. It is not advisory guidance. It is a **binding administrative determination** issued by the competent state authority after formal review of the applicable legal framework. Its conclusions are unambiguous:

- **Professor Hornig is not subject to the Labour Law.**
- **He is subject to the State employee system.**
- **His retirement and end-of-service entitlements fall under the public-sector regime.**
- **The employer bears responsibility for work permit and residence permit fees.**

Ten years have passed since this determination. Not one element has been implemented. The execution gap is complete. But the law has not disappeared—it has merely been suspended through institutional failure.

The simulated legality of NSSF contributions without coverage, the jurisdictional paradox of foreigner/non-foreigner status, the kafala heritage embedded in administrative documents—all of these constitute violations of Lebanese law and international treaty obligations. They are not administrative oversights. They are **systematic patterns of personhood manipulation** that extract economic value from human labor while denying the legal protections that labor is entitled to receive.

The path forward is clear. The law exists. The determination has been made. The acquired rights are vested. What remains is enforcement—the transformation of legal recognition into material reality. This is not a request for favor. It is a demand for law.

The execution gap must close.

Document prepared: November 2025

Legal analysis based on Ministry of Labor Opinion 332/2015 and comprehensive review of Lebanese administrative law, civil service regulations, and international treaty obligations