

## THE SUMMARY OF DOCTORAL DISSERTATION

*Judicial control of relationship termination as a mean of employment relationship permanency protection.*

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The subject of this doctoral dissertation is judicial control of relationship termination as a mean of employment relationship permanency protection.

The primary issue for labor law is protection of employment relationship permanency, which is understood as a limitation of right to terminate or dissolve of employment, fulfilled by implementation of specific legal measures. This kind of measure is the ability to call independent and impartial legal body for settlement of dispute related to the assessment of the correctness of its termination.

Judicial control of employment termination, next to the validity of employment termination and obligation to consult with trade union the intention to terminate the contract, is one of the elements of protection of employment permanency. In Polish legal system the Labor Court (the *Tribunal*) is a body to which the employee may appeal against termination of employment, and which has the competence to decide whether the termination was formally and substantively well justified.

The basic idea of the doctoral dissertation is, that the judicial control of employment termination is an essential component of employment permanency protection. Without its functioning on the principles of universality, specialized nature and high degree of informalisation, the employee would be in practice deprived of possibility to protect its rights. As a subsidiary thesis assumed, that the fact of existence of the possibility to refer the case concerning employment termination to an independent and specialized court has the stabilizing function of employment relationship. An employer having, in fact, awareness, and what is more, the obligation of notifying an employee about the possibility to appeal against the employment termination, must consider whether the reasons due to which employer intends to terminate the employment, as well as procedures, are sufficient and correct grounds for this action, or can it be legitimately challenged in judicial appeal.

The research aim of the dissertation was to demonstrate the role that judicial control of employment termination has, in the context of employment permanency protection and answer to the question whether the legal regulations which are its grounds, give grounds to

achieve essential purpose of its establishment, and thus, whether as a result of judicial control the legal cases of unlawful employment termination can be effectively eliminated.

To verify the aforementioned dissertation theses, various research methods have been applied in this work. The dominant method is formal – dogmatic one. In each chapter the analysis legal provisions for judicial control of the employment termination was performed, taking into account the established thesis, that it is an essential component of the employment permanency protection. From the cognitive side, the work complements the historical – descriptive method, based on which research on sources of judicial control of employment relationship in Polish law have been carried out. To some extent, when discussing the basic methods of eliminating disputes relating to employment termination, elements appropriate for comparative methods have been used.

Achieving the research goal required to undergo analysis of labor law provisions in connection with the Constitution of the Republic of Poland, the international law and regulations of the European Union, as well as civil procedure, where proceedings of labor law cases are regulated.

The dissertation consists of introduction, five chapters and conclusion. At the end of this work there is a list of legal acts, among which the acts of international law, EU and national law and a list of literature used in this work are specified. The dissertation is ended with the list of judgments of the Constitutional Court, the Supreme Court and general and administrative courts.

Chapter I, entitled "***The concept and sources of judicial control of employment termination in Polish labor law***" includes explanation – for the needs of whole work – of the terms "control" and "judicial control of employment termination", as well as discussion of the problem of localization of the judicial control of employment termination within the framework of the employment permanency protection means. The thread of other basic employment permanency protection measures, concerning the form and notice period of the employment contract, the obligation to justify reasons of termination and dissolution of employment without prior notice, as well as the obligation of consultation with the trade union that represents the employee is raised here. In this chapter sources of judicial control of employment termination contained in international treaties, the acts of European Union, the Constitution of the Republic of Poland and the Labor Code were also discussed.

Chapter II, "***The evolution of judicial control of employment termination in Polish labor law***" is dedicated to the evolution of judicial control of employment termination in Poland. In this chapter the issue of functioning of judicial control of employment termination,

starting from legal solutions adopted in Occupants' legislation and being in force in Poland after regaining independence, through the legislation of interwar period and legal solutions applicable in this area after the World War II, until the regulations adopted in the current labor code has been analyzed.

Chapter III titled "*Judicial and extrajudicial bodies dealing with control of employment termination and rules of separate proceedings in labor matters*" presents legal regulations concerning employment courts, their structure, characteristic and composition, as well as the legal proceedings mode in cases concerning employment termination, with particular emphasis on procedural differences existing in this type of cases. The issue of possibility of solving disputes relating to the employment termination out of court – before the conciliation committees, together with indication of their functions, way of appointing, organization and procedure, as well as the effectiveness of this method of resolving disputes related to employment termination was raised. In this chapter an attempt to formulate the general characteristics defining the judicial control of employment termination was made.

Chapter IV entitled "*Judicial control of contractual employment relationship termination with notice and without notice*" is an essential part of this work. In this chapter, the author focused on discussing the problem of scope of judicial control of termination of contractual employment concluded under a contract of employment for indefinite period of time and for fixed-term. Formal control criteria of correctness of employment termination and its legitimacy was brought closer. A lot of attention was devoted to the causes of employment termination, attributable to either employee or employer, in the context of consideration whether or not there are sufficient grounds for the recognition within judicial control of legality of termination of contractual employment relationship. The problem of legal remedies available for employment courts in case of ascertain defectiveness of employment termination without notice of termination of the employment contract was also raised.

Chapter V, entitled "*Judicial control of termination of employment relationship on the grounds of appointment, selection, designation and cooperative contract of employment*" provides an overview of the issue of correctness of employment relationship termination, concluded other than under a contract of employment. This chapter raised issues related to the claims of employees and scope of judicial control of the termination of employment relationship on the grounds of appointment, selection, designation and cooperative contract of employment and their distinctiveness in relation to claims resulting

from the contractual employment relationship, as well as possible court solutions, in case of determining defectiveness in these terminations.

At the end of the dissertation summary of considerations was presented, the conclusions on the grounds of existing rules and postulates de lege ferenda were also included.

The legal status actual on 30 April 2018 was adopted in this work.

*Grigorii Seydel*