

Advantages and disadvantages of the at-will employment doctrine

Abstract

This diploma thesis is focusing on the at-will employment doctrine, which is the default principle dominating employment law in the United States of America. Its aim is to evaluate advantages and disadvantages of the at-will employment doctrine. As a prerequisite for further analysis of possible advantages and disadvantages, the thesis in its first part defines terms such as employment law, employment contract and employee in the context of legal order of the United States and takes into account significant differences arising from the differences between Anglo-American and continental legal culture. As a next step in its second part this diploma thesis provides a description of basic components and historical development of the at-will doctrine, which is the default and key principle controlling employment relationships. In the third to fifth part the thesis is dedicated to the three main exceptions to the doctrine, which were developed by common law over time. These exceptions are public policy, implied in fact contract and a covenant of good faith and fair dealing. Each of these exceptions is at first conceptually defined and then its influence on employment relationship disputes is described. Continuously, it is summarized in which scope each exception is applied in individual jurisdictions. The diploma thesis also analyses the reasons for not applying those exceptions in some states and whether these states have adopted laws or codes containing such exceptions instead. The sixth part characterizes the doctrine as it has been, to a greater or lesser extent, preserved in its original form without any exceptions applied. This has specifically happened in only two states, Florida and Georgia. The seventh part is focused on relevant Czech legislation governing termination of employment relationships, because it is crucial in order to reach the purpose of this diploma thesis. Namely, it is pointed out to the complete contrast between the legislation governing employment law in the United States, and the Czech legislation, representing continental legal culture. The eighth part then elaborates on the advantages and disadvantages of the doctrine. Hypothesis of the functionality of at-will doctrine in its original form is analysed and then compared with practical application of the exceptions.

Key words: [at-will doctrine, common law, wrongful discharge]