

Proceedings in labour law

Abstract

The aim of this thesis is to describe and summarize the development in decision practice in selected areas of labour law on grounds of significant judicial decisions and proceedings preceding these decisions and to confront the conclusions of these decisions not only with the author's legal view but also with legal views of other authors within the specialised literature and to present *de lege ferenda* suggestions in relation to proceedings in labour law.

This thesis consists of four chapters. The first chapter includes a general presentation of labour law. The second chapter generally concerns the proceedings in labour law with focus on civil proceedings including its labour law specificities and at the end it concerns the importance of case-law and the role of the Supreme Court in its unifying. The description of case-law development in selected areas of labour law is presented in the third chapter, more specifically in the area of burden of proof in discrimination matters according to Section 133a of the Civil Procedure Code, immediate termination of employment by an employer according to Section 55(1)(b) of the Labour Code and the simultaneous performance of directorship and employment – this chapter also includes a confrontation of the judicial conclusions with the author's legal views and with legal views of other authors within the specialised literature. The last fourth chapter is concerned with the above mentioned *de lege ferenda* suggestions, more specifically with the legislative proposal of the so-called Labour Arbitrator and the reversal of the burden of proof in labour disputes.

The core of this thesis is undoubtedly the third chapter which includes a description of development in case-law on grounds of the judicial decisions arranged in chronological order from the oldest to the newest in each of the above mentioned areas. At each of the decisions, there is a detailed description of the proceedings preceding the decision mostly at all levels, including the conclusions of the courts. These decisions are subject of the author's critical evaluation either individually or in combination. At the end of the particular subchapter, a conclusion of case-law development and also general conclusions for labour law practise in each of these areas are provided.

The source of the thesis is an extensive case-law of the the Supreme Court, the Supreme Administrative Court and the Constitutional Court besides the regulations and specialised literature.

Key words:

proceedings in labour law, labour case-law, Labour Arbitrator