

Transfer of an employee to alternative work due to health reasons

Abstract

This thesis deals with the legal regulation of the institute of transferring an employee to alternative work due to health reasons and its related labor law contexts.

The introductory chapter briefly describes the development and legal regulation of the institute of transfer of an employee to alternative work. Attention is focused on the compliance of unilateral transposition with the Charter of Fundamental Rights and Freedoms and the obligations arising from international treaties, as well as the principles of labor and civil law. In addition to that, essential terms for the further discussion of the institute of transfer of an employee are being defined: the type of work, specific description of the type of work and the employer's dispositional power.

The second part of the thesis is dedicated to the legal regulation of changes in the content of the employment by agreement and unilateral legal action and in particular, by transfer. The third part focuses on the introduction of basic occupational health concepts, which are used in the following chapters focusing on transfers due to health reasons. Attention is focused mainly on the medical opinion, which is one of the most common and problematic reasons for transferring employees to another job.

In the fourth part, devoted to the general regulation of the transfer of an employee for health reasons, the author of the thesis identifies problematic aspects and application problems in the light of current case law. The chapter deals with the obligation to transfer an employee, possible obstacles at work and compensation of wages. It deals with the relationship between termination and transfer for health reasons. The government's drafts to change the regulation of transfers for health reasons are being analyzed and the author of the thesis submits her own consideration *de lege ferenda*.

The following part discusses the specific reasons for the transfer for health reasons. The author applies the knowledge gained from the previous, general part and also analyzes their specifics.

In the final part, the author collects and examines institutes and ideas from German legislation applied to cases in which an employee is not able to perform his work due to health reasons.

In conclusion, findings from the thesis are summarized and supplemented by the consideration of the author *de lege ferenda*.

Keywords: transfer of an employee to alternative work, employment protection, medical fitness for work, medical certificate

