

## **The Limits of subordination of employee during dependant work**

### **Abstract**

An employment relationship is one of a civil law relationships. It differs from other civil law relationships because of its object, i.e. a dependant work and unequal positions of its subjects.

At the time of commencement of the employment relationship, an employee becomes subordinate to an employer and the employee obliges to follow the instructions of the employer. The employee spends substantial part of his or her working day in this unequal relationship.

Superordinate position of the employer is not absolute. In the history of the Czech labour law, we can see attempts to express this limitation of superordinate position of the employers. For example, the draft of the civil code from 1996 declares that an employee can refuse to perform the instruction of an employer which is not in compliance with the employment contract or the collective agreement and that an employee shall refuse to perform the task which is not in compliance with law.

However, the act No. 262/2006 Sb., labour code, only declares that an employee shall perform instructions of an employer if they are made in compliance with law. Such absence of regulation shall not be interpreted in the way that a scope of the superordinate position of the employer is not limited.

Although not explicitly expressed, there are some facts which can limit the superordinate position of the employer in favour to protection of the employee. Such facts arise from the personality of the employee or are determined by other factors, especially by contents of the employment contract. Therefore, we can distinguish a subjective or an objective limits of subordination of employee.

As the objective limits of subordination of the employee, we can mention a type of work, which determines the subject-matter of the employment relationship, a working time, which determines the time scope of the employment relationship, and a place of work, which determines the local scope of the employment relationship.

The subjective limits of subordination of employee present the protection provided to some employees with respect to their personalities. Such limits are for example a religion of the employee, an age of employee or a pregnancy.

**Key words:**

Employment relationship, instructions of employer, limitation of subordination of employee