

Illegal work – performance of work outside the basic employment relationship

Abstract

The topic of this diploma thesis is illegal employment according to the provisions of § 5 letter e) point 1 of Act No. 435/2006 Coll., on employment, as amended. The thesis deals exclusively with the fulfillment of the definition of illegal work by performing work outside the employment relationship, ie situations where there is either a concealment of dependent work, its performance without a valid employment contract or the performance of work on examination. The main goal of this work is to connect the field of employment with the field of administrative punishment and thus gain comprehensive knowledge about illegal work and its punishment. The thesis provides a detailed analysis of the current legislation on illegal work and links its wording with selected case law, thus creating a comprehensive overview of the issues addressed.

This diploma thesis is divided into four main chapters. In the first part, the graduate focuses on the definition of the terms dependent activity and dependent work, which are necessary for understanding the issues of work outside the employment relationship.

The second part of this work describes in detail the possibilities of fulfilling the definition of illegal work, while its important passage is devoted to the phenomenon of the so-called Schwartz system, i.e. a naming for concealment of the true nature of workplace relations by purposefully pretending to pursue an independent profession. However, in this part the work also deals with equally interesting issues of factual employment relationship.

In the third chapter, the graduate views illegal work as an administrative offense and deals with the issue of administrative punishment of this conduct. It thoroughly analyses the methods used by the Labour Inspectorate to detect illegal work, including various principles of imposing administrative penalties for these acts.

The final part of this work presents the transfer of theoretical knowledge of the graduate into practice, because in this part the graduate analyses selected decisions of regional labour inspectorates issued in 2020, which sanctioned allowing illegal work. In this part, the graduate also characterizes the fundamental problems of combating illegal work and offers their solution *de lege ferenda*.

Klíčová slova: illegal work, dependent work, schwartz system