

ABSTRAKT

PERSONAL DATA PROTECTION IN LABOUR LAW RELATIONSHIP

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The thesis is concerned with personnel data protection in connection with labour-law relationships. Personnel data protection issue is approached completely here and explanation of it is organically interconnected with cases of its use in labour-law relationships.

Factually the thesis is output of grant-aided project GAUK No. 121009 “*Personnel data protection in labour-law relationships*” researcher of which the author was in the years 2009 - 2012.

By no chance the name of above mentioned grant-aided project is identical with the name of the thesis. From the very beginning of the research of the project a monograph dealing with personnel data protection in the context of labour-law relationships, or more precisely thesis dealing with this topic that would be published, was planned as its output.

Within four years of intense engagement in personnel data protection in labour-law relationships, in three of which the author worked on above mentioned project, almost thirty articles and papers in professional periodicals and collections, monograph and a rigorous thesis focused on personnel data protection in the process of employment relationship commencement, monograph focused on personnel data protection in the process of personnel data transfer to other countries (co-author of second part of this monograph was Mr. Mgr. et Bc. David Burian, director of Section of Registration of Data Protection Authority) and finally commentary on Personnel Data Protection Act (its material-law provisions) originated.

In all of these publication acts as well as in his lecture activity in professional discussion forums and conferences, the author paid attention to actual questions arising from practice of application as well as personnel data protection in labour-law relationships in objective law, *de lege ferenda* considerations, and namely, in the context of constitution law and legal sociology and philosophy, also questions directly concerning this issue as for example its moral aspects etc. With the relationship of law and morality as well as ideal model of objective law in the context of this relationship (not from the view of personnel data protection or labour-law relationships) the author dealt separately in the thesis *Moral of law - the relation of law and morality*.

Even though from the beginning of grant-aided project GAUK No. 121009 “*Personnel data protection in labour-law relationships*” research, i.e. research of the issue of personnel data protection in labour-law relationships, the valid legal regulation was changed in a certain manner, these changes were not that significant. In the context of this and with regard to the fact that the author slightly changed his opinions, but not as far as the basic aiming or principal questions are concerned, the given thesis presents certain summary of conclusions and considerations that were presented primarily in above mentioned publication acts - some parts of it are explicitly

copied. However some questions are elaborated more in detail, some questions are even finished and in some aspects the conclusions were partially corrected.

The thesis is divided into five parts.

In the first part the author pays attention to the issue that spreads through and connects personnel data protection and labour-law relationships as well as objective law in its general. These are questions concerning the significance of objective in law, term of law itself and namely questions of human rights and the relationship of law and morality. In the context of what is written in the first part other parts II. - V. must be perceived.

For the purpose of clarifying of objective, sense and significance of personnel data protection, in the second part the author deals with historical development of this issue and in connection with this also with some basic international acts. The second part is followed by the third part which is focused on personnel data protection in the European context, namely with EU law (primarily the Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and at the same time the author deals with the new legal frame of personnel data protection given in the draft of Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

The fourth part is devoted straight to the personnel data protection in labour-law relationships in the context of actual valid legal regulation. Some considerations *de lege ferenda* are given in this part. The integral part of it is summary of judicature, namely those of Supreme Administrative Court, Municipal Court in Prague, European Court of Human Rights and Constitutional Court of the Czech Republic, that is connected with the personnel data protection issue.

The fourth part is written in the form of commentary to the provisions of Act No. 101/2000 Coll., on the Protection of Personal Data and on Amendment to Some Acts, as amended. The commentary includes practical examples resulting from practice of application that are primarily focused on situations typical for labour-law relationships.

The fifth part contains solutions of some concrete application problems arising from the area of personnel data protection in labour-law relationships. The attention is paid to possible contain of employee 's personnel file. The author also points out a certain inner contradiction of actual legal regulation. Together with it the issue of monitoring of employees is solved.

The conclusion is primarily focused on the way of professional discussion (concerned with difficult legal cases and topics) about the issue of personnel data protection as well as general issues. The author points out the most frequent reasons causing failure in a professional discussion. He also presents his consideration how to lead effectively professional discussion so that the discussion participants came to effective conclusions.

The aim of the thesis is to give key how to understand the personnel data protection complexly and to point out its interconnection with labour-law relationships and its projection into practice of application. Next to it the purpose of the thesis is also to show generally accepted interpretation of respective legal regulation, practice of application of Data Protection Authority and to highlight alternative possibilities of interpretation and application of legal regulation, which is connected with opening of discussion about some problematic aspects and consequential *de lege ferenda* considerations.

Keywords: labour law, personal data protection, human rights