

Termination of Employment after Civil Re-Codification

Abstract

The thesis deals with different means of termination of employment, which may occur either as an expression of the will of a party or both parties to an employment contract, i.e. the employee or the employer, or as a consequence of another kind of legal occurrence. The paper further researches the impact of the Civil Code, as a general civil law regulation, and amendments to the Labour Code implemented due the Civil Code coming into force on termination of employment and its consequences. Primary focus is on the application of the general regulation of ineffectiveness and voidability of termination as well as on interpretation of employment-related legal conduct under the Civil Code. The thesis also explores the influence of civil-law regulation of time limits and lapse of time on counting of time in labour law. The thesis reflects court decisions related to the Labour Code issued since 2014 when the Civil Code came into force.

Following an overview of all means of termination of employment, the paper focuses on individual means of termination by the parties consisting in the unilateral or bilateral expression of will of the parties to an employment contract. These means include agreements to terminate employment, dismissal, summary dismissal and termination of employment in a probation period by the employee or by the employer. The part dealing with termination of employment due to a breach of statutory duties related to the employee's work covers specific cases of breach of statutory duties leading to termination of employment which recently appeared in court and HR practice, including an analysis of evidence permissible in court disputes regarding wrongful termination. The analysis also includes other aspects related to termination of employment, such as protective periods during which employment cannot be terminated or collective dismissals. A separate chapter focuses on the service of notices of termination.

The last part of the thesis deals with termination of employment due to certain legal occurrences, most importantly on termination of a fixed-term employment. At the end, the paper summarizes the outcomes of the research including a potential necessity of future adjustment with respect to developments in the court practice of the Supreme Court and the Constitutional Court and the long-awaited amendment to the Labour Code.