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“Peaceful methods of resolving collective disputes”

Abstract

The subject of a dissertation is peaceful methods of resolving collective disputes, ie. the negotiations, mediation and arbitration within the meaning of the Act of 23 May 1991 of resolving collective disputes. The aim of the dissertation is to determine whether regulations peaceful resolving labor disputes in Poland meet the current social - economic conditions. For its realization it is necessary to among analyze the Polish labor law in the context of European and International legislation.

The considerations set out in the doctorate are entitled to a conclusion that the problem of solving collective disputes requires a comprehensive examination. In the literature lacked detailed reflection of the consequences of the decision - making slack parties to the dispute regarding the procedure by which want to plead with the statutory provisions of European countries. The work had to be done among analyze of intervention mechanisms which could be used independent state body at the stage of dispute.

The doctorate is divided into four chapters. First of them deals with basic issue of collective disputes, ie. definitions and collective dispute. The dissertation see about status of the parties in collective disputes. The doctorate answers the question whether the Polish legislator has kept a good balance between the trade union - as one dispute party and the employer or his organization - as the another party.

The second chapter concentrates on negotiation. In Poland, the collective negotiation is mandatory. The consideration set out in this part of the work is adressed the explanation which structure of negotiation - mandatory or voluntary - is correct in the context of international regulations and the construction of Europe. The conditions of the collective bargaining, such as location, starting time, steps and methods of terminating negotiation are also things which is annalyzed.

The third chapter concerns on mediation procedure. It's success may depend on whether the mediation is - mandatory or voluntary. Currently in Poland, there is a mandatory mediation. In many European countries, among others Belgium, Sweden or

UK mediation is voluntary. In work attempt is made to answer the question, what are the consequences of the current model of mediation. In this part of dissertation examined is the role of the mediator and the way of its designation. Polish labor law establishes the principle that he is indicated by the competent minister in charge of labor, if the parties fail to agree on a collective within five days on the choice of a mediator. In European countries it is set by the state or private institution. In the dissertation attempt is made to explain the importance of diversity appearing in this issue.

In fourth chapter interest is the issue of arbitration, which in Poland is used rarely. In Germany arbitration is very popular. In UK arbitration is used more often than mediation. Legislator should answer the question, why this method of dispute resolution isn't used successfully in Poland. In view of the above, in the work are analyzed problems on the arbitration authorities, the end of social arbitration, binding rulings issued in the arbitration proceedings and the legal nature of collective agreements concluded at this stage of collective disputes in Poland.

The basis of the research allowed to formulate the main theses as follows the act of peaceful resolving collective disputes need some changed in the context of social - economic process. In dissertation five specific theses were distinguished. First, limit the monopoly of trade unions to represent the employee side in a collective dispute by ensuring that workers actively participate in this kind of dispute within the framework committee. Secondly, the adoption of any dispute concerning the collective rights and interests of workers. Thirdly mediation in some employers should be voluntary. Fourth, it is desirable to introduce a state body, helping parties to resolve labor disputes. Fifth arbitration society requires changes. It would be great for point of view of purpose of resolving disputes if employers and their' s organization have the right to request for arbitration. Arbitration should be leaded by a qualified social arbiter.

In doctorate it was used two methods: dogmatic - legal and legal - comparative. During the analysis of institutions typical of collective disputes, it took advantage of domestic law, International and European legal regulations. It was necessary to analyze in particular legislation, the ILO, UE, Council of Europe, and the European countries taking into account the achievements of literature and jurisprudence. The collected findings allowed to present demands *de lege ferenda* and *de lege lata* concerning peaceful resolving collective disputes in Poland.

The dissertation presents the legal status on 21 June 2016.