

## **Abstract of the doctoral dissertation**

**Author: Anna Moskwa, M.A.**

**Supervisor: Katarzyna Kaczmarczyk- Kłak, Associate Professor, Habilitated Doctor**

**Dissertation subject: Remuneration for work in the aspect of the pan-European legislation and principles of the Polish Republic Constitution**

The subject of considerations undertaken in the doctoral dissertation are the problems of remuneration for work in the Polish labour law in the aspect of the pan-European legislation and principles of the Polish Republic Constitution. The aim of the dissertation is to demonstrate that values such as: freedom, equality, justice, confidence and legal safety as well as basing them on the basic human rights in the scope of labour law and therefore remuneration for work – in the result of occurring integration processes - „have moved over to the suprapstate plane”, bestowing them a pan-European advantage as already common values within the framework of Europe. The consecutive goal of research is work – work as a process, which takes place first of all between a man and nature, in which the man by his activity realises, regulates and controls exchange of the matter with nature. Thus specialisation takes place and isolation outside work, of another type of activity, which has already been defined with a label of services. In the thesis there have been presented relations between minimum remuneration and decent/indecent remuneration, issues connected with social rights relating to labour law analysed on the plane of dignity of a human being as well as the notion of social justice and its meaning for remuneration for work. The category of remuneration for work constitutes an essential element of social-economic and legal life. Remuneration for work is one of the main features of the employment relationship (art. 22 § 1 Labour Code) and the basic source of income of the major part of the society.

In the Polish system of labour law one can vainly seek for a legal definition of the notion „remuneration for work”. This complex expression, and constituting it „work” and „remuneration ” does not have in itself an unambiguous character. Both terms are ambiguous. In language of the law as well as legal language three categories are distinguished structuring this expression (minimum, decent remuneration, just remuneration). The aims of the dissertation are not limited only a legal-dogmatic aspect of this problem. A philosophical, sociological and economic aspect was also taken into consideration. Modern debate concerning remuneration for work is episodic and multi-layered. In the thesis besides methods appropriate on the grounds of law-making, such as: the method of historical analysis, comparative, dogmatic-legal, or theoretical - legal analysis one also has used the method of



philosophical and ethical analysis, because decency, or justice have such character, as well as one has referred to economic analysis which underlies all distribution of goods and their division.

The dissertation consists of an introduction, four chapters and closing remarks. At the end of the thesis there is bibliography and a list of legal acts among which acts of international, Union and national law are isolated. The dissertation is closed with a list of judgments of the European Tribunal of Justice, the Constitutional Tribunal, the Supreme Court and appellate courts.

Structural and legal conditioning of transition constituting the expression of general social changes represent the subject of the first chapter of the dissertation entitled *Human labour from the interdisciplinary perspective – theoretical and philosophical reflections*. The problem of the social change was presented and in which way the transition process lead to structural and political transformations of the system of law, how it influenced modification of legal relations on the plane an employer – an employee and what effects they had in this matter. In the face of structural-social changes, departure from the command economy and adoption of the principles of free market caused that the principle of social justice was formulated different from the one accepted in the real socialism. According to the binding RP Constitution social justice is the essential social-structural principle.

In the second chapter of the thesis the author discussed problems connected with *Regulation of remuneration for work in the perspective of the European Union law, international law and principles of the Polish Labour Code*. Passing a new RP Constitution forced the legislator to adopt the Labour Code to the presented regulations based on totally different axiology and political philosophy. In this chapter the problems of constitutionalisation of the labour law principles were undertaken. The principle of the social market economy was discussed, which is connected with the principles of legality, social justice, common good. In a way of weighing they specify the extent and limits on economic activity, which are not inconsequential at determining the principle of freedom of employment contacts.

The third chapter of the thesis undertakes the problems of *Remuneration for work in the light of the international and national judicial decisions*. It was underlined in the dissertation that from one hand it is talked about minimum remuneration, on the other hand about decent remuneration, while on the third hand about remuneration complying with social justice. These three categories structuring the notion of remuneration for work are the subject of consideration in this chapter. Reduction of decent remuneration to minimum remuneration

was considered as inconsistent with international conventions adopted by Poland, European legislation and the principle of social justice contained in art. 2 of the Constitution.

The last chapter of the dissertation entitled *Postmodernism (late modernity) versus the necessity of reformulation of the principles of remuneration for work*, was dedicated to considerations how late modernity deconstructs the principles of remuneration for work and in what degree it may influence solutions in future labour legislation.

An essential aspect in the dissertation seeking an answer to a question whether a limit of minimum remuneration for work constitutes its decency and justice? Do we name indecent remuneration for work only when it is lower than minimum remuneration? Therefore is an employer only to equalise it to ensure minimum remuneration, or in the name of social solidarity should he, or the state, ensure actual standard of decency of remuneration consistent with international and pan-European requirements?

Minimum remuneration for work is far from decent remuneration, which constituting one of elements of the state policy, would head to overcoming not only poverty, but also satisfaction of decent needs of all employees and their families. Social justice in labour relations, social protection and social policy consists in obligation of the state and its appropriate public authorities to guarantee all members of a designated, organised society a proportional participation in access to common good which decides on living standard and possibilities of civilizational, cultural development, participation in economic and social life of particular persons and their relatives (members of their families). At the foundation of every good society i.e. a social system based on justice there should be such system of legal norms, which will realise, through the principles of a democratic legal state, the principle of social justice.

The principle of social justice constitutes an essential and the most important attribute of law, and thereby it is a reviser of all actions of the legislator, among others also provisions on remuneration for work.

The dissertation ends with conclusions included in closing remarks, where considerations on the subject on remuneration for work, transformation of labour process were summed up and postulates *de lege ferenda* were formulated.

Anna Moskwa