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SUMMARY

Situation of an employee in a distinct court procedure in the labour cases against the backdrop of the constitutional principles

The topic of the dissertation is the processual situation of an employee in a court procedure in the labour cases in the context of the principles envisaged in the Constitution of Poland of April 2nd 1997. The main focus of the analysis is how the binding regulations that concern processual opportunities and rights of an employee are embedded in the context of the constitutional rules. This issue translates into the following research questions: Are the processual rights of an employee compatible with these principles? How do the constitutional principles influence the court proceedings, how do they shape the interpretation of the civil procedure provisions in this regard? The topic is important the more so since the influence of the Constitution on the court proceedings in civil cases has increased in the recent years, which is described as the “constitutionalisation of the civil procedure”.

The dissertation is divided into eleven parts: the introduction presents the main aims and assumptions of the analysis. The first chapter examines the diverse ways, in which the Constitution shapes the court procedure in the labour cases. The analysis encompasses the vertical and the horizontal effect of the constitutional provisions. This chapter also discusses various forms of impact that the Constitution has on the decision-making process and argumentation provided by the court following its judgments. The second chapter analyses the notion of the “constitutional principle” and the hierarchy of such principles. The chapter examines the semantical scope of the constitutional principles, which have the key significance in the court proceedings in the labour cases: the principle of the democratic state ruled by law; the right to a competent, impartial and independent court (including a fair and public hearing of one’s case without undue delay); the principle of protection of work; the principle of freedom of economic activities; the principle of equality; the principle of proportionality. The third chapter defines the notion of “procedure regarding labour law”, which is a specific and distinct notion in the Polish code of civil procedure. The fourth chapter is devoted to the history of law regarding proceedings in the labour cases. This part demonstrates the traditional long-term presence of such regulations in the Polish law and the evolution of such provisions in 20th and 21st century. The fifth chapter examines the current regulations of the code of civil procedure regarding the composition of the court, representation of the parties and acceding of other subjects to the process. The special attention is paid to the role of lay judges. The sixth chapter examines the distinct solutions which regard the submission of civil actions in labour cases as well as the scope and character of the initial proceedings of the court. The chapter discusses the possibilities of oral lodging of various pleadings. It also analyses the principles of the preliminary examination of the case and explanatory actions, which constitute an important element of the trial management performed by the judge. The seventh chapter discusses the provisions regarding the court’s control over the dispositive actions of the parties in the context of the protection of an employee’s legitimate interest. It scrutinises the possibilities of issuing judgments on alternative claims. The chapter also analyses the provisions with regard to making the judgments in labour cases immediately enforceable. The eighth chapter examines the provisions regarding the costs of civil proceedings in

labour cases in the context of the constitutional principles. It concerns three groups of special matters: 1) statutory exemptions

from the costs of the court proceedings; 2) opportunities for a party of being exempted from the costs by the court; 3) opportunities of free legal advice. The ninth chapter examines the cumulation of the two separate proceedings: in the labour law cases and the simplified proceedings. The chapter defines the conditions of such cumulation and the procedural specificity of such cases. It discusses the influence of applying the simplified proceeding on the protective dimension of court procedure towards an employer.

The last part is the conclusion and summary of the analysis. It emphasises that the constitutional principles protect the important social values, but in the cases of separate court proceedings in labour cases some of these principles may be conflicting with each other. The role of the statutory provisions, and the actions of the court, is to balance the conflicts of values in such a way that represents justice in a democratic state ruled by law.