REVIEW

THE JURISDICTION OF EMPLOYMENT RELATIONS. LEGISLATION, DOCTRINE, JURISPRUDENCE

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The present review has as its core topic the presentation of the treatise "Jurisdiction of employment relations. Legislation, doctrine, jurisprudence", written by the prestigious Professors Alexandru ȚICLEA and Adelina DUȚU and published by the prestigious publishing house "Universul Juridic" of Bucharest in 2021.

The first strong reason why I recommend this book is the fact that it contains a multitude of information necessary for practitioners (legal advisors, magistrates, lawyers), for theoreticians (teaching staff), but also for future professionals (students, PhD students); it is a really necessary tool, even for a non-specialist judge.

Even at a quick glance, the scale of the work can be noticed primarily. The treatise covers over 1,000 pages of dense information, which claims a sustained effort to get through. Fortunately, the fact that the matter is conveniently divided helps, the work being structured in 3 parts comprising no less than 26 chapters.

The first part, containing preliminary explanations, has an introductory character, presenting to the reader the notion and principles of the jurisdiction of legal employment relations. In this sense, the authors started from the specific terminology, went through the object of labor jurisdiction and ended by analyzing the general and specific principles, applicable to the jurisdiction of employment relations.

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The second part is the most consistent because it analyzes the relevant institutions of labor jurisdiction. Its 20 chapters follow the logical order of the dynamics of labor relations. Thus, the birth of these relations requires employment, but this is done after checking the professional and personal skills of the employee (analyzed in chapter no.3) and also after a trial period (subject of chapter no. 4).

From the employee's point of view, salary (chapter no. 5), time spent working and, resting respectively (chapters no. 6-7), safety and health at work (chapter no. 8), as well as workplace safety are important, in the sense of not being subject to discrimination and harassment (chapter no. 9).

On the other hand, from the employer's point of view, the information obtained through the evaluation of the professional activity (chapter no. 10) is relevant, because it will be the base of the future professional training and improvement of the employee (chapter no. 11), which will ultimately bring material benefits to the employer.

Next, starting from the reality that nothing lasts forever, the two prestigious authors analyzed the changes that can occur in labor relations, in the form of their modification and suspension (chapters no. 12-13).

Regardless of whether they are still in their original form or in a changed one, employment relations are governed by the rules contained in the internal regulations (chapter no. 14) and in the collective labor contracts and agreements (chapter no. 15). And among these rules, there are those related to disciplinary liability (chapter no. 16) and liability for damages (chapter no. 17).

Finally, subject to destruction, like any other human creation, employment relationships cease, either by law (chapter no. 18) or by the will of the parties. In this last case, the authors analyzed both the termination by the concordant will of the parties (chapter no. 19), as well as the one by the manifestation of the will of only one of them – dismissal (chapter no. 20) and resignation (chapter no. 22). Also, special attention was paid to the termination of employment or service relations of special categories of employees, such as civil servants, the military or members of the diplomatic and consular corps (chapter no. 21).

A final word in this second part was given to collective labor conflicts and strikes, these forms of expression of dissatisfaction which are in the antechamber of either the termination or the modification of labor relations (chapter no. 23).

It should be emphasized that all analyzed institutions were richly illustrated with solutions from jurisprudence, so the work had the necessary quality to become an important guide in practical activity.

The third part of the treatise, named "Judicial Procedures", is dedicated to the resolution of labor disputes by the courts, either by the specialized ones, in the case of employees (chapter no. 25), or by the administrative courts in the case of civil servants, for example (chapter no. 26).

As we can see, the analysis is vast but, fortunately, as we are used to from the other works of distinguished authors, the treatise is characterized by synthetic explanations and comments, expressed in a clear and easily accessible language, so we dare to say that the work is comprehensible even for those who are not legal specialists.

As emphasized from the beginning, I started my mission with a heavy heart, but, going through the work, I discovered the existence of common points of interest and I would like to present one of these. Thus, at The Court of Appeal in Galati, we managed to create a pole to promote the unification of jurisprudence, in the sense that we use the procedural means conferred by the law and, in particular, the so-called "appeal procedure in the interest of the law". The beneficiaries were not only fellow judges, but all legal professionals, primarily lawyers. We obviously took advantage of the active procedural quality that the management board of the court of appeals could have in filing such cases with the High Court of Cassation and Justice from Romania. And one of the last cases filed by the Galati Court of Appeal was related to a legal problem regarding labor law. Addressing this problem in its Decision no. 15/2022, the High Court of Cassation and Justice – Panel for resolving the appeal in the interest of the law, stated that:

"*In the interpretation and uniform application of the provisions of art. 52 para. (2) from Law no. 53/2003 – Labor Code, related to the Decision of the Constitutional Court no. 405/2016, in the case of the employee regarding whom the employer issued, pursuant to art. 52 para. (1) letter b) the first sentence of Law no. 53/2003 – Labor Code, decision to suspend the individual employment contract, following the effects of Constitutional Court Decision no. 279/2015, in the situation where the legal relationship governed by the provisions of the law found to be unconstitutional was not definitively consolidated, in the patrimony the employee exists a right of claim consisting of a compensation equivalent to the due remuneration, for the entire duration of the suspension, based on the rules and principles of contractual civil liability*".

As can be seen, it is a specific matter of labor law, a problem that I had the pleasure of finding mentioned in the treatise on pages no. 384-385. Therefore, the work that we present clarifies many aspects of social life that we can face, so it is, as the authors also intend, both a useful, effective and current tool in professional activity, as well as a material of study and reflection. The conclusion we reach is natural: the treaty should not be missing from the libraries of law professionals, be they theorists or practitioners.