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Settlement of labour law cases in Poland. Theoretical and practical aspects

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1. *Introductory remarks*

The existence of special mechanisms for the settlement of disputes arising in the sphere of employment has a long history in Poland – dating back to 1928[1]. The distinctions take into account both the specificity of these cases, as well as the position of the participants in the dispute[2]. Traditionally, the protective dimension of the rules governing labour law proceedings has been recognised, based on the assumption of the factual inequality of the parties, which the legislature in some way compensates[3]. By establishing specific mechanisms for resolving labour law disputes, the legislator also implements the constitutional principles of labour protection (Art. 24 of the Constitution of the Republic of Poland), the principles of social justice (Art. 2 of the Constitution of the Republic of Poland) and the right to court (Art. 45(1) of the

[1] Boguska, Pisarczyk, *Funkcja ochronna prawa pracy a zmiany w przepisach Kodeksu post - powania cywilnego, Przegl d Prawa i Administracji CXXIV*, 2021, p. 38.

[2] *Ibidem*, p. 38.

[3] *Ibidem*, p. 39.

Constitution of the Republic of Poland), understood as the right to actual access to justice and a properly formed procedure[4].

This text is a synthetic presentation of the problems of resolving labour law cases in Poland. In particular, the organisation of labour judiciary in Poland, the scope of jurisdiction of labour courts, and their territorial and functional jurisdiction will be presented. Then the proceedings in labour law cases will be presented, focused on its special characteristics aimed at strengthening the position of the employee and bridging the differences in the actual position of the parties to these proceedings.

This text focuses on the judicial resolution of labour law disputes. A distinctive feature of labour law disputes is that they seek an amicable conclusion, primarily through a court settlement or mediation proceedings. However, these issues – due to their breadth and importance – are excluded from this text and presented in a separate study.

2. *A brief historical overview*

In 1918, Poland – after 123 years of partition – regained its independence. As early as 1928, two pieces of legislation were enacted that became the foundation of labour law – the Presidential Decree on Employment Contracts for Labourers[5] and the Presidential Decree on Employment Contracts for White-Collar Workers[6]. At the same time, by virtue of the Decree of the President of the Republic on Labour Courts of 22, 1928 March labour courts were established[7]. Thus, the history of labour courts in Poland dates back to 1928.

This act comprehensively (although not initially nationwide), introduced a unified mechanism for resolving disputes arising from the employment and vocational training relationship between employers and employees or students, and between employees of the same enterprise[8]. The subject-

[4] Boguska, Pisarczyk, *cit.*, p. 39; Grzegorczyk, Weitz, *Constitution of the Republic of Poland. Commentary*, Vol. 1, in Safjan, Bosek, (Ed.) 2016, Wydawnictwo Prawnicze, p. 1085 ss.

[5] OJ 1928, n. 35, item 324.

[6] OJ 1928, n. 35, item 323.

[7] OJ 1928, n. 37, item 350.

[8] Baran, *Rozstrzyganie indywidualnych sporów pracy*, in *Historia polskiego prawa pracy* in *System Prawa Pracy*, Vol. 14, in Baran (Ed.), Wolters Kluwer, 2021, p. 1449.

matter scope of the labour courts' jurisdiction was broad, encompassing not only disputes relating to the employment relationship, but also disputes related to the employment relationship in a functional way or in terms of the subject-matter only[9]. Also in terms of subject-matter, the labour courts' jurisdiction was broad – it included consideration of the cases of labourers, domestic servants, domestic caretakers, white-collar workers (with some inclusions), students and apprentices[10].

In all categories of cases handled, the courts used the jurisdictional method. Since the beginning of labour courts in Poland, its characteristic feature has been the participation of the social factor – jurors[11].

As for procedural issues, the legislature attached particular importance to the principle of speed of proceedings[12].

Fundamental changes in the labour court system occurred after World War II. The change in the political system (socialist system) and economic system (centrally planned economy), as well as the entry of Poland into the orbit of influence of the Soviet Union caused radical changes in the regulation of the settlement of labour law disputes. In 1950, the labour courts developed in the interwar period were abolished. In its place in the first half of the 1950s, the Soviet model of labour dispute settlement bodies was adopted[13]. Its essence was to give jurisdiction over labour matters to bodies that are, as a rule, extrajudicial in nature – company arbitration committees. Under the decree of 24 February 1954 on company arbitration committees (DCAC), such committees were established in all workplaces with more than 100 employees. If an arbitration committee has not been established at a particular workplace, arbitration committees have been set up at field trade union bodies. Within the jurisdiction of the arbitration committees were disputes arising from labour relations in socialised enterprises. As for the procedure before the company's arbitration committees, it was quasi-judicial in nature[14]. The case was decided at a quasi-hearing, in which the employee had the right to participate, who could also be represented by a family member of a union representative or another employee. The primary purpose of

[9] *Ibidem*, p. 1449.
[10] *Ibidem*, p. 1449.
[11] *Ibidem*, p. 1452.
[12] Art. 28 of the Decree of the President of the Republic of Poland on Labour Courts.
[13] BARAN, *cit.*, p. 1455.
[14] *Ibidem*, p. 1455.

the company arbitration committees, according to the assumptions formulated in Art. 8 of DCAC, was to settle labour relations disputes in accordance with the interests of the working masses and the welfare of the national economy. As noted in the literature, the arbitration committees – contrary to their name – did not use the arbitration method, but the jurisdictional method, when settling individual labour disputes[15]. The committee's rulings could be appealed to the board of the relevant trade union, which had the option of approving the ruling or overturning it. Only if the ruling was overturned, or if the committee's decision was not unanimous, did the employee have the option of taking the case to court. As the literature points out, during this period there was a unionised justice system in labour cases, in which the importance of the courts was marginalised[16]. This was in line with the ideological assumptions of the social and economic system of the time.

This model underwent some modifications in 1975 after the Labour Code was enacted[17].

The existing jurisdiction of labour unions in the second instance was abolished. The competencies of the appellate bodies were taken over by the newly established district labour and social security courts. Still, the main burden of first instance jurisprudence was carried by company arbitration committees.

The above system was fraught with numerous drawbacks. Although the committees were intended to be social bodies guided by impartiality, in practice they were dependent on the management of workplaces and trade unions that were submissive to the authorities[18]. Hence, since the early 1980s, it has been called for change. This change was made in 1985 through a sweeping reform of the Labour Code and the Code of Civil Procedure enacted on 18 April 1985, under which the administration of justice in labour law cases was entrusted to labour courts. This system – with some modifications due to the changes that have taken place over the years in the organisational model of the general judiciary – is still in place today.

[15] *Ibidem*, p. 1456.

[16] *Ibidem*, p. 1456.

[17] Act of 18 April 1985, amending the Code of Civil Procedure Act, Journal of Laws 1985, n. 20, item 86.

[18] Dziadzio, *Zarys historii s downictwa pracy* in *Procesowe prawo pracy. System prawa pracy*, Vol. 6, in Baran (Ed.), Wolters Kluwer, 2016, p. 73.

3. *Organisation of the labour judiciary*

In the Polish justice system, labour courts are organisational units of general courts[19]. Thus, from an organisational point of view, they are an integral component of the general courts because they have the status of a division or divisions of these courts. Their very name underlines, first of all, the distinctiveness of the procedure in labour law cases[20]. Labour courts therefore function within the structures of the general judiciary. They do not form a separate institution (such as the administrative judiciary), but operate according to the rules applicable to all general courts. Their separation is organisational and functional in nature[21]. Labour courts, as specialised organisational units of general courts (divisions), have been obliged by the legislator to recognise and adjudicate labour law cases[22]. By adopting such a solution, it was possible to combine, on the one hand, the organisational uniformity of the judiciary in civil cases in the broad sense, and on the other hand, the need for professional and specialised justice in labour law cases[23]. As a rule, in judicial practice, labour and social security divisions are separated in the structure of district courts. Also, higher courts (regional courts and courts of appeal) usually have labour and social security divisions.

Labour courts in the first instance hear labour law cases with a single judge as a rule. In some cases, the legislature also requires the participation of jurors who represent the social factor. This includes cases related to:

(a) determination of the existence, establishment or expiration of the employment relationship, recognition of the ineffectiveness of the termination of employment, reinstatement and restoration of previous working conditions or wages, as well as claims asserted together with them and for compensation in the event of unjustified or unlawful termination and termination of employment,

(b) violations of the principle of equal treatment in employment and for claims related thereto,

[19] Art. 12 sec. 1a item 2 of the Law on the System of Common Courts.

[20] Baran, *Status organizacyjny s downictwa pracy*, in *Procesowe prawo pracy. System prawa pracy,* Vol. 6, in Baran (Ed.), Wolters Kluwer, 2016, p. 418.

[21] *Ibidem*, p. 419.

[22] Świątkowski, *Kognicja s dów pracy*, in *Procesowe prawo pracy. System prawa pracy*, Vol. 6, in Baran (Ed.), Wolters Kluwer, 2016, p. 284.

[23] Baran, *Sta*, p. 420.

(c) compensation or damages as a result of mobbing.

It should also be mentioned that due to the fact that labour courts are organisationally part of the general judiciary, the Supreme Court supervises their adjudicatory activities[24]. Labour law cases in the Supreme Court are heard by the Labour and Social Security Chamber, whose jurisprudence plays a very important role in shaping the adjudicatory practice of labour law in Poland.

4. *Material and territorial jurisdiction of labour courts*

Labour courts hear labour law cases. The term "labour law cases" was introduced by the legislator to define the subject matter jurisdiction of labour courts[25]. The concept of labour law cases is further clarified by Art. 476 of the Code of Civil Procedure, according to which labour law cases include those: 1) for claims from or related to the employment relationship; 1[1]) for determining the existence of an employment relationship, if the legal relationship linking the parties, contrary to the agreement between them, has the characteristics of an employment relationship; 2) for claims from other legal relationships to which, by virtue of separate , the provisions of labour law apply; 3) for compensation claimed from the employer under the on benefits for occupational accidents and diseases.

Employment relationship cases are those in which the basis of the claim being asserted is the employment relationship, regardless of whether the employee is performing work under an employment contract, appointment, election or cooperative employment agreement (Art. 2 of the Labour Code). The claim here arises from the failure or improper performance by one party to this relationship of its obligations to the other party[26]. The most representative cases of employment relationship claims are those for reinstatement or compensation in the event of defective termination or termination without notice, claims for damages for violation of the prohibition of discrimination, claims for damages for mobbing, claims by the employer for

[24] Art. 183 of the Constitution of the Republic of Poland.

[25] Świątkowski, *Kognicja s dów pracy* in *Procesowe prawo pracy. System prawa pracy*, Vol. 6, in Baran (Ed.), Wolters Kluwer, 2016, p. 285.

[26] Bury, Nawrocki, *Post powanie s dowe w sprawach z zakresu prawa pracy*, 2019, p. 1.

compensation for damage caused by the employee, a claim for rectification of the labour certificate, a claim for payment of wages, a claim for cancellation of a disciplinary penalty imposed by the employer.

As a separate category of cases, the legislature has established cases for claims related to the employment relationship. Matters related to employment relationship include those that, although not directly involving a violation of the rights and obligations arising therefrom, but whose necessary basis for existence is the employment relationship. This applies to such matters that could not have arisen without the existence of the employment relationship, arising from other legal ties linking the employee and the employer, with this "other" legal relationship, from which the party's claim arises, being in close interaction with the primary link, which is the employment relationship[27]. Examples of cases for claims related to the employment relationship are: for the protection of the employee's personal rights (Art. 23 and 24 of the Civil Code) for compensation for damages related to the refusal to conclude a promised employment contract[28], for claims arising from non-performance or improper performance of a non-competition agreement after the termination of the employment relationship, against the employer for reimbursement to the company social benefits fund of funds disbursed contrary to the provisions of the Act of March 4, 1994 on the company social benefits fund[29].

Cases to establish the existence of an employment relationship are cases that seek to establish that the employment relationship linking the parties, contrary to its name, is in fact an employment relationship, since work is performed under conditions characteristic of an employment relationship. The possibility of bringing such an action allows the employee to eliminate the discrepancy between the formal name of the contract (indicating a civil law contract) and the way the work is performed, which exhibits the characteristics of an employment relationship. As a result of the procedure, it is possible to change the legal classification from non-employee to employee status[30].

[27] Świątkowski, *Droga s dowa w sprawach z zakresu prawa pracy i ubezpiecze społecznych*, Palestra 1986, 5-6, p. 23; Bury, Nawrocki, *cit.*, p. 16.

[28] *Ibidem*.

[29] Bury, Nawrocki, *cit.*, pp. 16–17.

[30] Świątkowski, *KSP*, p. 335.

Cases for claims from other legal relationships to which, under separate the provisions of the labour law apply are cases transferred to the jurisdiction of the labour court by virtue of a special provision. These are labour law cases in the formal sense. The designation by the special provision of the labour court as the competent court to hear the case prejudges the examination of the case in a separate procedure for labour law cases[31]. Examples of cases in this category are cases from so-called non-employee employment relationships, which are of an administrative-legal nature, to the extent that the provisions of the service pragmatics statute the jurisdiction of the labour court, or cases for payment of benefits from the Guaranteed Employee Benefits Fund[32].

The last case classified by the legislator as labour law cases are cases for damages claimed against the employer under benefits for accidents at work and occupational diseases. These include, among others, cases to determine whether an event was an accident at work, as well as a case against an employer for compensation for loss or damage in connection with an accident to personal effects and objects necessary for the performance of work, except for loss or damage to motor vehicles and monetary values (Art. 2371§ 2 of the Labour Code).

The *majority* of labour law cases are decided in the first instance by district courts. This is due to the general rule that district labour courts have jurisdiction over all matters for which the jurisdiction of the district court is not reserved. Regional courts hear cases in the first instance with a value of the subject of litigation over PLN 100,000 and cases of a non-material nature. However, it should be noted that to the jurisdiction of district courts, regardless of the value of the subject matter of the dispute, are assigned cases for determining the existence of the employment relationship, for recognition of the ineffectiveness of the termination of the employment relationship, for reinstatement and restoration of previous working conditions or wages, and claims asserted jointly with them, and for compensation in the event of unjustified or unlawful notice and termination of the employment relationship, as well as cases concerning penalties of order and the certificate of employment and claims related thereto. These are the most common labour law cases in practice, so it is legitimate to say that labour law cases are generally

[31] Bury, Nawrocki, *cit.*, p. 22.

[32] Art. 20 (3) of the Law on the Protection of Employee Claims in the Event of Employer Insolvency.

decided in the first instance by district courts. Appeals against the judgments of the courts of first instance are heard by the regional courts and courts of appeal, respectively.

The territorial jurisdiction of the labour court is alternate in nature. According to Art. 461 § 1 of the Code of Civil Procedure, an action in a labour law case can be brought either before a court with general jurisdiction over the defendant or before a court in whose jurisdiction the work is, was or was to be performed. This is especially relevant in the case of multi-plant employers, where the employer's head office is located in a different place than the workplace where the work was performed by the employee.

5. *Proceedings in labour law cases*

Labour law cases – as belonging to the broader category of civil cases – are resolved according to the provisions of the Civil Code. However, the special nature of these cases has resulted in separate regulation of the rules of these proceedings in Chapter III of the Code of Civil Procedure, entitled "Proceedings in Labour and Social Security Cases"[33]. Labour law proceedings are therefore separate proceedings. The purpose of the separation of labour law proceedings is primarily the need for a protective function[34]. Indeed, in procedural law, too, there is a perceived need to establish mechanisms to correct disparities in the legal position, generally affecting all employees vis-à-vis employers[35]. Special procedural arrangements are also necessary to ensure that the goals of substantive law are achieved (symbiosis of substantive and procedural law)[36].

The separation of labour law cases and the establishment of special rules for them with protective significance is justified by the nature of labour law cases, the importance of the employment relationship for its parties, especially for employees, as well as the social significance of this type of disputes, arising

[33] Świątkowski, *Prawo do s du w sprawach z zakresu prawa pracy* in *Procesowe prawo pracy. System prawa pracy*, Vol. 6, in Baran (Ed.), 2016, p. 265.

[34] Skapskiąpski, *Funkcje procesowego prawa pracy*, in *Procesowe prawo pracy. System prawa pracy*, Vol. 6, Baran (Ed.), 2016, p. 47; Mędrala, *Funkcja ochronna cywilnego post powania s dowego w sprawach z zakresu prawa pracy*, 2011.

[35] *Ibidem*, p. 47.

[36] Skapsiąpski, *cit.*, p. 45; Boguska, Pisarczyk, *cit.*, 124, p. 40.

in connection with a legal relationship that is the primary source of livelihood for most of society[37]. The basic assumptions leading to the differential litigation position of the parties are the weaker economic position and lower legal awareness of the employee[38], as well as more limited access to professional legal assistance. Thus, strengthening the position of the employee by privileging them over the employer in various litigation situations serves to equalise the disparity between them and, as a result, create balance and equality between the two parties. The protective function of the procedural rules on labour law cases is delivered by several principles on which the regulation of Section III was based, which include, first and foremost, the expansion of the circle of persons who can represent an employee before the labour court, the limitation of formalism of the proceedings, the distinctiveness of the conduct of evidentiary proceedings, the increased possibility of the court to act ex officio, the speed of the proceedings, the limitation of the cost of the trial on the part of the employee.

5.1. Expanding the circle of entities that can represent an employee before the court

In order to facilitate employees' access to professional legal assistance and to bridge the differences between employees and the employer in this regard in labour law proceedings, the legislator has expanded the range of entities that can represent an employee before labour courts. According to Art. 465 par. 1 of the Code of Civil Procedure, an employee before a labour court can be represented not only by a professional trial attorney (advocate or legal counsel) but also by representatives of trade unions and social organisations, or by other employee of the workplace where the employee works. The admission to the process as attorneys of the entities indicated in Art. 465 sec. 1 of the Civil Code is based on the assumption that these persons, while not being professional attorneys, nevertheless have relevant experience in disputes concerning the employment relationship and can assist the employee in this regard[39]. In addition, employees may apply for *ex officio* legal aid under the general rules established by the Code of Procedure. How-

[37] *Ibidem*, p. 47.
[38] *Ibidem*, p. 48.
[39] *Ibidem*, p. 48.

ever, practice shows that these solutions do not quite satisfy these functions. As a result, a real problem in labour law cases, is that it is difficult for employees to access professional legal assistance. Very often, the low value of the subject matter of litigation in labour law cases makes them unprofitable from the point of view of professional trial attorneys. Also, access to *ex officio* legal aid is not sufficient. Little use is made of the possibility for representatives of trade unions and other social organisations to represent workers before labour courts. Presumably – although this is not supported by empirical research – this is due to the low level of union membership and perhaps the low activity of the unions themselves in this regard.

As a result, employees often do not benefit from any professional support in the process, which significantly weakens their litigation position vis-à-vis the employer, who usually has such support.

5.2. *Distinctions in the field of evidentiary proceedings*

In separate proceedings in labour law cases, as a rule, the general rules of evidentiary proceedings apply, unless the rules relating to this type of case regulate certain issues differently. These differences are mainly due to the protective function of these proceedings post with respect to the employee[40]. For a long time, a hallmark of labour law proceedings was the court's ability, and even obligation, to take evidence *ex officio*, for the employee. Currently, the main principle of conducting evidentiary proceedings is the adversarial principle, in which the initiative for conducting evidence rests with the parties. However, according to the second sentence of Art. 232 of the Code of Civil Procedure, the court may admit evidence not indicated by a party. The literature points out that this provision implies the court's obligation to admit evidence *ex officio* in situations where there are particularly good reasons for ordering it to properly clarify the case[41]. A peculiar feature of the evidentiary proceedings in labour law cases is the non-application of rules limiting the admissibility of witness and hearing evidence (Art. 473 of the Code of Civil Procedure) The evidentiary limitations provided for in this provision are primarily restrictions on the possibility of taking evidence from witnesses or questioning parties against or beyond the content of a document (Art. 247

[40] Flaga-Gieruszyńska, *Post powanie dowodowe w sprawach z zakresu prawa pracy*, in *Procesowe prawo pracy. System prawa pracy*, Vol. 6, in Baran (Ed.), Wolters Kluwer, 2016, p. 624.

[41] Flaga-Gieruszyńska, *cit.*, p. 624.

of the Code of Civil Procedure). This exception to the general rules under Art. 247 of the Code of Civil Procedure means that any fact relevant to the employee can be proven by any means of evidence that the court deems desirable and their admission advisable[42].

5.3. *Guarantees of speed of proceedings*

It should be pointed out that the speed of proceedings is one of the basic guarantees of an efficient and fair trial in all civil cases, and in labour law cases its importance is particularly momentous[43]. This is especially true in matters related to workers' compensation and the existence of the employment relationship. In this regard, labour law proceedings not only have a protective function, but also a social function related to the provision of basic necessities for the workers and their families. The social importance of the aforementioned problems underlies the construction of the principle of speed in labour law cases[44]. The principle of speed of proceedings in labour law cases is primarily delivered by Art. 471 of the Code of Civil Procedure. For a long time, this provision stipulated that no more than 2 weeks should elapse between the time of filing a lawsuit and the date of the hearing. This deadline was instructive and was significantly exceeded in court practice. However, the glaring discrepancy between the time limit indicated in Art. 471 of the Code of Civil Procedure and practice prompted the legislature to amend this provision and make the deadlines more realistic. According to the wording of Art. 471 of the Code of Civil Procedure, as amended in 2019, the chairperson and the court are obliged to act so that the date of the court hearing at which the case is to be heard is no later than one month from the date of completion of the preparatory hearing, and if no such hearing has been held, no later than six months from the date of filing the statement of defence. The literature points out that the six-month deadline seems quite far away. Adding to this, the time for filing a response to a lawsuit or preliminary exchange of pleadings, this may result in the reality that labour law cases will not be resolved faster than within a year in the first instance[45].

[42] Order of the Supreme Court of 17 November 2020 II UK 386/19 (L. n. 3080408).

[43] Mędrala, *Zasada szybko ci postepowania w sprawach z zakresu prawa pracy po nowelizacji K.P.C.*, *Przegl d Prawa i Administracji*, Vol. CXXIV, in Jabło ski, Tomanek (Ed.), 2022, p. 86.

[44] Mędrala, *cit.*, p. 86.

[45] *Ibidem*.

Judicial practice confirms these concerns. The protraction of proceedings continues to be a basic affliction of the judiciary in labour law cases. In large metropolitan areas, cases before labour courts in the first instance sometimes last 3 to 4 years[46]. This greatly weakens the protective function of labour law, both in terms of substantive law and procedural law[47]. The protractedness of the proceedings also renders some of the claims from the employment relationship pointless (for example, seeking recognition of termination as ineffective, which can be adjudicated if the period of notice of termination of the employment contract has not yet expired), and some – after the passage of such a long time – difficult to implement (for example, implementation of the claim for reinstatement of the employee). It should therefore be concluded that the principle of speed of proceedings – so important in labour law cases – is not delivered in practice.

5.4. *Increasing the court's ability to act ex officio*

A hallmark of labour law proceedings is the greater ability of the court to act *ex officio*. Previously, this assumption was implemented by basing the proceedings on the principle of objective truth and equipping the court with a wide range of possibilities to act *ex officio*, as well as to adjudicate beyond the claim filed by the employee[48]. However, the scope of actions taken by the court has been significantly reduced as a result of changes to the labour law procedure, which were aimed at making the procedure more adversarial dispositive. Still, some elements of the increased ability to act *ex officio* have been retained.

According to the second sentence of Art. 477 of the Code of Civil Procedure, the chairperson instructs the employee on the claims arising from the facts they have cited. This is a solution that takes into account the disposition of the employee, as modification of previously formulated claims requires a request from the employee[49]. The court cannot make this modification on its own motion.

According to Art. 477(1), if an employee has made a choice of one of

[46] Conclusions from the legal practice of the author, who is an active legal counsel acting in labour law cases.

[47] Boguska, Pisarczyk, *cit.*, p. 37.

[48] Skapskiąpski, *cit.*, p. 51.

[49] Skapskiąpski, *cit.*, p. 53.

the alternative claims to which they are entitled, and the claim made proves to be unjustified, the court may, of its own motion, consider the other alternative claim. The case law has clarified that the phrase "will prove to be unjustified" used by the legislator does not mean a general lack of justification of the claim, because then the court should dismiss it and not grant another claim, but that the claim is justified in principle, but the employee has chosen, in the opinion of the court, an unjustified claim[50].

In addition, according to Art. 477^2 § 1 of the Code of Civil Procedure, when adjudicating the amount due to an employee in labour law cases, the court shall, *ex officio*, when issuing the judgment, give the order of immediate enforceability in a part not exceeding the full one-month salary of the employee. It is also an expression of the labour law's protective function – the employee receives their claim in an amount not exceeding a full one month's salary even before the judgment becomes final.

5.5. *Limitation of litigation costs on the part of the employee*

Another characteristic of labour law proceedings is that the employee is privileged in terms of bearing the costs of the proceedings. The issue relates to the adequate regulation of costs, the process, so that they do not create a barrier that limits access to court for employees, especially the poorest ones[51]. For a long time (since 2005), an employee whose claims did not exceed the amount of PLN 50,000 was exempt from the relative fee for filing a lawsuit (which in ordinary civil cases is 5% of the value of the subject matter of the dispute). A very important change in this regard was introduced by the amendment to the Law on Court Costs in Civil Cases, which came into force on 23 September 2023. According to the amended regulations, an employee is exempt from court fees for filing a lawsuit and most other court fees regardless of the value of the subject matter of the dispute. It seems that this change will make it easier for employees to access judicial resolution of disputes from the employment relationship. However, it may result in a significant increase in the number of lawsuits filed by employees, which will translate into a further lengthening of labour law proceedings.

[50] Justification of the resolution of the Supreme Court of 30.03.1994, OSNCP 1994/12, item 230.

[51] Skapskiąpski, *cit.*, p. 52.

6. *Conclusions*

The regulations in force in Poland for the settlement of labour law cases deserve a positive assessment in many respects. First of all, the adopted organisational model of labour judiciary deserves approval. On the one hand, they are part of the general judiciary, which deliver the assumption of uniformity of justice in civil cases, and on the other hand – due to the functional and organisational separation of divisons specialised in the settlement of labour law cases – ensures specialisation and substantive preparation for the settlement of disputes in this area. Proceedings in labour law cases perform a protective function, although it has undergone some modification in recent years – the court's ability to act *ex officio* has been curtailed, in favour of increasing employee activity and exerting an influence on the proceedings. In practice, however, this may translate into a weakened position for an employee acting without professional legal assistance. In principle, the exemption of employees from court fees is also to be welcomed, although perhaps in this case, it would be more appropriate to raise the amount of the value of the subject matter of the dispute, beyond which the employee would be obliged to pay these fees.

The biggest problem of the Polish judiciary in labour law cases (and not only) is undoubtedly the lengthiness of court proceedings. This significantly undermines the protective function of both labour law proceedings themselves and substantive labour law. Indeed, an employee has to wait a very long time for an adjudication of their claim – while often are of a maintenance nature. Unfortunately, the Polish legislator has not yet found an effective way to solve this problem, and the solutions adopted recently (for example, the order to continue employing an employee until the case is legally resolved) are more about "alleviating the symptoms" rather than eliminating the source of the problems. A problem observed in practice is also that employees have difficult access to professional judicial assistance.

Abstract

The settlement of labour law disputes in Poland is based on several pillars – the organisational and functional separation of labour courts, which specialise in the settlement of such cases, the separation of labour law proceedings, the purpose of which is to protect employees as actually the weaker party in these proceedings. In such proceedings, a number of solutions have been introduced to bridge the differences in the position of the parties to these proceedings and to make it easier for employees to access the opportunity to assert their rights in court. The purpose of the study is to present the essential goals and features of the organisation of labour courts in Poland and separate proceedings in labour law cases, and to attempt to assess their functioning in practice.

Keywords

Labour courts, labour law cases, proceedings, protective function; employee' rights.