

Description for the general public

The term "legal event" or "legal fact" is a legal term that enables the analysis of social relations governed by law. In contemporary law theory, legal facts are divided into conventional events and other events. Conventional activities make sense only in the area of law, they are activities designed by law and the law indicates how they should be carried out. Other legal events are facts that exist independently of law but to which law attributes a specific meaning. For example, the death of a person in an employment relationship results in the termination of that relationship. In some areas of law, descriptions and analysis of legal events occurring in them are made. In the field of labor law, this topic has rarely been dealt with, and if so, it was primarily for specific types of events, such as those causing the termination of the employment relationship. So far, general studies on this subject show that there is a need for theoretical research on undescribed types of legal events, in particular the "consents" mutually granted by the parties to an employment relationship, collective labor law bodies and/or persons not belonging to the category of labor law.

In some cases, the "consent" takes the form of a legal action, in other cases - an action similar to a legal action, to an administrative act (eg Article 3045) or to a court action (Article 22 § 3 of the Code). Under the uniform notion of "consent", there appear to be legal facts different in nature. They require the systematization and generalization of description which will enable an assessment of how coherently the term is used by the legislature and to what extent the consent has the same legal specificity in similar cases.

Therefore, the aim of the project is, firstly, to select the cases of consent in the current labor law. Secondly, to establish the legal nature of individual "consent" cases with regard to the legal status of the entity authorized by the legislature to grant it. Thirdly, the role of "consent" will be assessed as an instrument shaping the content and sometimes legalizing the behavior of individual and collective employment relationships. The purpose of the project is also to describe the model (or models) of consent as a specific type of conventional action in the context of individual or collective labor law.

Research will also allow to answer the following specific questions:

1. What behaviour is granted by the consent?
2. Who grants the consent to perform a particular activity and in what relation remains considering the entity performing that activity and its recipient?
3. Is there, or should there be a detailed procedure for granting consent, and if so - what elements should it include?
4. Shall the refusal to grant consent be subjected to any control procedure, and in particular whether it is permissible to question such a refusal before the court of law or in judicial-administrative proceedings?
5. Is it possible to talk about free and unforced consent granting in every case when the granting entity and the recipient are subjects of labour law?

Preliminary studies indicate that the legislator assumes that the consent expressed by all subjects of labor law is equal and expresses the free decision of the consenting party. Verification of this hypothesis and answering the questions above will require to the usage of psychological research tools. Research involving a psychologist will make it possible to assess the nature of the relationship between the addressee and the consenting party. A Hypothesis that there is an asymmetric relationship between the employee and the employer related not only to the current situation on a job market will be assessed. This part of the project consists of research performed by a psychologist. A quantitative nationwide survey conducted on a representative sample is planned as well as the qualitative survey using a Focus Group Interview method.

The findings in the study aim to provide a generalized answer to the question: How should a model or models of actions in granting consent be formed as a specific type of activity in labor law and how can the legislator use this instrument to shape labor law relations?