

Summary of the dissertation entitled "A university statute as a source of establishing the employment relationship of academic teachers".

The subject of the dissertation concerns the issue of the university statute within the scope in which it constitutes a source of establishing the employment relationship of academic teachers. In the substantial dimension this dissertation concerns a circle of academic teachers (whose scope is specified in the part of the dissertation dedicated to the subject scope) as well as candidates for academic teachers. The subject scope of the considerations in the dissertation focuses on one of the stages of the employment relationship, i.e. the phase of establishing the employment relationship of academic teachers as well as related issues.

The analysis of university statutes, which results from the implementation of the delegation of the Law on Higher Education on the principles of establishing the employment relationship of academic teachers, has highlighted a number of significant problems. The degree and scope of their reasonable diversification, once perceived through the prism of the provisions in the Law on Higher Education, became the basis for the thesis in which the university statute, in so far as it regulates the principles of establishing an academic teacher's employment relationship, is a subsidiary (in relation to the provisions of the Law on Higher Education) or a specific source characterised by the differentiation of establishing the employment relationship of academic teachers.

At the stage of establishing the employment relationship of academic teachers the phenomenon of statutory differentiation may occur as a result of implementing statutory delegations by the institution bodies on the basis of the statute of a given institution. Symptoms of the dissimilarity in statutory regulations in the field of establishing the employment relationship of academic teachers, as shown in empirical research conducted in the dissertation, are present in numerous higher education institutions.

Differentiation of statutory regulations occurs in relation to the issues that either directly or indirectly affect the establishment of an employment relationship of academic teachers. The first category of cases where differentiation occurs in the context of establishing an employment relationship is among others the sphere of optional regulation on additional requirements and professional qualifications (the so-called additional selective rigors) for academic teachers holding positions provided for research and teaching staff, researchers and

teaching staff- a delegation from article 116 of the Law on Higher Education. Another category of cases where differentiation occurs is implementation by the statute of an obligatory definition of the mode which confirms significant and creative achievements in the scientific work, professional work or artistic work for academic teachers who do not meet the requirements of article 114 section 2 and 3 of the law on Higher Education who are candidates for the post of associate professor or visiting professor (delegation from article 115 section 1). The third category of cases leading to the differentiation of the legal position of academic teachers are statutory provisions regarding the determination of the mode and conditions of the competition procedure (delegation from article 118a) as well as regulations regarding the determination of the mode of establishing an employment relationship with an academic teacher (delegation from article 118 section 2) as well as the body that refers to the employment relationship in a non-public institution (article 118 point 3). The fourth category of issues is determined by all statutory regulations which, from the perspective of the provisions laid out in the Law on Higher Education, introduce unconventional regulations related to the establishment of the employment relationship of academic teachers.

The outlined material scope of the interpretation of the dissertation implied the analysis both in the general and more detailed scope and its defined structure. Chapter 1 focuses on issues related to the research problem of the university statute as a specific subsidiary or inherent source of establishing the employment relationship of academic teachers which often has the characteristics of differentiation. The aim of the dissertation, as well as the interpretation of the provisions in the university statutes, was possible due to applying conventional research methods. The leading dogmatic and legal method enabled the process of examining the existing statutory law in terms of clarification and interpretation of the elements comprising the legal system for the studied area of establishing the employment relationship of academic teachers. The axiological method accompanying the research allowed us to include the principles of establishing an employment relationship in the context of values desired in the academic environment. Examination of statutory provisions in axiological categories enabled the assessment of the regulations related to establishing the employment relationship of academic teachers in terms of their compliance with the provisions and assumptions of the Law on Higher Education (as regards the validity of differentiation or the lack of it) as well as the assessment of their influence on establishing the employment relationship of academic teachers. The empirical method played a subsidiary role in the process of analysing the

provisions in the university statutes. In this dissertation the empirical method covers fifty-eight statutes of both public and non-public higher education institutions.

In the functional dimension it allowed for the presentation of a multispectral differentiation in the scope of establishing the employment relationship of academic teachers and made it possible to group individual regulations in the statutes based on the determined criteria. Applying the historical method enabled us to present the phenomenon of rulemaking and shaping the law in the field of the academic labour law in the context of regulating the employee status of academic teachers as a process that is strongly related to specific social phenomena. The so-called legal comparative studies regarding the international scope are omitted because of a particular nature of solutions adopted in the university's statutes. Therefore, the application of the comparative method other than in the domestic scope was an accidental doing due to the specifics and autonomy of statutory regulations indifferent to the analysed problem. Taking into consideration the fifty-eight statutes of the universities analysed in the dissertation, it was necessary to apply the statistical method. Taking it into account in the process of interpreting the provisions in the statutes, enabled the percentage representation of individual practices taking place in higher education institutions. The choice of the above research methods was justified by aiming at a more effective research process and drawing the *de lege lata* conclusions which lead to *de lege ferenda* postulates.

Historical issues are included in Chapter 2 which presents an analysis of statutory principles and requirements for establishing an academic teachers' employment relationship in the comprehensive dimension throughout one century. The main purpose of the chapter was to present the evolution of the regulations in terms of establishing the employment relationship of academic teachers and the indissoluble influence on their functioning and shaping, the changing political situations and, after 1989, also the social and economic situation.

Theoretical topics have been raised and presented in Chapter 3 which contains key issues related to the topic of the dissertation as a starting point and references for further deliberations within the scope of defining a university statute, its legal character, its place in the hierarchy of the sources of the labour law and the role as a non-statutory source of the labour law.

Anna Węgrzyn
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