

Cases of invalidity in employment relationships

In 2019, the President of the Curia of Hungary designated the Labour Section of the Administrative and Labour Department of the Curia of Hungary to carry out a jurisprudence-analysis in respect of the topic of cases of invalidity in employment relationships.

Invalidity has the effect of depriving the agreement or legal statement concerned of the desired legal consequence thereof and of being able to be legally enforceable. The concept of invalidity in the field of labour law is primarily based on the civil law approach on invalidity, but it takes the specificities of labour law into consideration as well.

Although the Labour Code does not provide for the application of the Civil Code's provisions on invalidity, it is necessary to examine what can be taken over from the civil courts' case-law in that regard. The jurisprudence-analysing working group has to explore how the terms related to the non-existence, invalidity, ineffectiveness or unlawfulness of legal statements have been applied by lower instance courts.

The parties are increasingly referring to non-compliance with the accepted principles of morality as a ground for nullity, therefore the latter has to be assessed in the context of the other grounds for invalidity and of the general conduct requirements of labour law. A position also has to be taken on the formal and substantive requirements of how the grounds for challenge should be invoked. The legal consequences of the declaration of invalidity are to be specified as well.

Due to the lasting nature of employment relationships, circumstances which would have otherwise hindered their lawful establishment should they have existed at the time of the conclusion of the employment contract may often arise only after the establishment of such relationships (for instance the modification of the relevant pieces of legislation or the emergence of a ground for the prohibition of employment). The steps to be taken in such cases have to be determined.

The jurisprudence-analysis includes the relevant courts cases that have been launched after 1 July 2012 and have been since finally disposed of.

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