

## **An employee's duty of loyalty to the employer**

### **Summary**

The main objective of the dissertation is to provide a comprehensive overview of the issue of an employee's duty of loyalty to the employer. The duty is not explicitly regulated by the provisions of the Labour Code. However, the concept of employee loyalty appears both in legal jargon and in judicial rulings. An employee's disloyal conduct and the consequent loss of the employer's trust often constitute grounds for termination of the employment relationship with notice or, in certain circumstances, immediate effect.

The thesis consists of six chapters, preceded by introduction and capped by a conclusion.

The starting point for the analyses presented in the dissertation is Chapter I, which explores loyalty as a legal category. This section provides an introduction to the topic of the duty of loyalty in legal relationships. Detailed analyses on this issue are preceded by a definition of the term “loyalty” both in common and legal language. Furthermore, this chapter outlines the legal regulations from the inter-war period in Poland, which the literature derives the duty of loyalty in employment relationships from. Moreover, an analysis of selected private law regulations was carried out in search of the legal sources of the duty of loyalty in contractual legal relationships under the current law.

Chapter II attempts to determine the sources of an employee's duty of loyalty as well as to answer the question of whether it constitutes an element of the content of the employment relationship. Analyses in this regard covered the provisions of Article 100(2)(4) and (6) of the Labour Code. It was also necessary to determine the meaning of the term “welfare of the workplace” mentioned in Article 100(2)(4) of the Labour Code, and to decide whether the duty of care expressed in the cited provision, which literally refers to the welfare of the workplace, could be referred to the welfare of the employer. The study also addressed the question of the correlation between employee loyalty and employer trust.

Chapter III is devoted to determining the manifestations of employee loyalty in the provisions of general labour law. Towards this end, issues such as the prohibition on competition during the employment relationship, the protection of employer secrets and secrets subject to non-code provisions, and the permissibility of contractual restrictions on taking up additional non-competitive employment were examined.

Chapter IV includes considerations on the issue of enhanced employee loyalty in selected employee pragmatics. The analysis covers the regulations contained in the Civil Service Act, the Local Government Employees Act and the Act on higher education and science. The provisions of these acts provide for specific employee duties as well as prohibitions and restrictions not found in general labour law.

It can be challenging to determine whether certain actions taken by employees are a manifestation of loyalty to the employer or, on the contrary, a lack of it. These include whistleblower activity and expressing critical opinions about the employer. Therefore, in Chapter V, these issues are analysed in the context of an employee's duty of loyalty to the employer.

Chapter VI is devoted to the consequences of a breach of the duty in question. In the context of the Labour Code, reference should be made in this regard to liability for maintenance of order and financial liability as well as termination of employment. The analysis also focused on the liability provided for in other legal acts, including the Civil Code, the Penal Code and the Act on combating unfair competition.

The conclusion provides an assessment of the current state of the law in the analysed scope, the findings derived from the content presented in the individual chapters of this dissertation as well as a formulated *de lege ferenda* conclusion.

Lukasz Bolsta