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**Legal protection against workplace violence in Poland
against the background of foreign experience**

*(Polskie standardy ochrony prawnej przed przemocą
w pracy na tle doświadczeń zagranicznych)*

SUMMARY

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The subject of the dissertation is an analysis of the Polish standards of legal protection against workplace violence and a comparison thereof with solutions adopted by foreign legislators. The deliberations presented in the dissertation aim to answer the question of whether provisions of Polish law provide sufficient legal protection against workplace violence for all workers. An assessment of the applicable Polish regulations has been proffered by means of a juxtaposition with relevant rules applicable in selected foreign legal systems that guarantee extensive legal protection for the victims of the disturbing phenomenon.

The dissertation has been divided into four chapters. It begins with an introduction which lays down the main aim of the dissertation, the scope and methodology of the research conducted, as well as a justification for the choice of topic. One of the arguments in favour of undertaking research on the phenomenon of workplace violence is the growing interest in the subject matter in recent years. In 2019, the International Labour Organization adopted Convention No. 190 concerning the Elimination of Violence and Harassment in the World of Work. The entry into force of this convention in 2021 may initiate the process of amending laws against workplace violence implemented by the members of the Organization, which will require a revision of the existing preventive regulations.

The main objective of the first chapter of the dissertation is to demonstrate the general characteristics of the problem of workplace violence. The chapter offers a historical overview of the development of the phenomenon, as well as an outline of the sources of public international law and European law guaranteeing employees a right to have their dignity respected, a right to safe and hygienic working conditions, as well as a right to a working environment free from workplace violence. The main part of the chapter consists of an analysis of the concept of workplace violence. While the most common manifestations of workplace violence are workplace bullying, harassment and sexual harassment, employees are also exposed to more serious attacks and violations, including physical assault. An analysis of the nature of workplace violence leads to a conclusion that not only employees, but all workers performing work for employing entities may become victims of workplace violence, and that the latter should take action to protect the personal well-being of workers, particularly where they affect their working environment. In addition to considerations concerning the potential responsibility of employing entities for workplace violence have been supplemented by an analysis of the possibility of recognizing as workplace violence acts which do not occur at the place and time of work, but are functionally related to the performance of tasks for a given employing entity.

The second chapter of the dissertation considers the solutions against workplace violence adopted in selected foreign legal systems. Particular attention has been paid to the standards of protection against workplace violence implemented in the United States of America, Germany, France, Belgium and Canada. The analysis of foreign regulations was carried out by defining the scope of protection against workplace violence guaranteed to victims of the phenomenon, as well as presenting employers' obligations related to the prevention of reprehensible behaviour at the workplace. Foreign experience shows that many legislators have decided to introduce extensive regulations aimed at combating workplace violence, which impose on employers a duty to take a host of preventive actions. In the case of several legal systems, legislators have decided to classify workplace violence as a violation of occupational health and safety regulations, which in turn entails imposing additional obligations on employers. Treating workplace violence as an occupational and safety risk in some jurisdictions has led to the imposition of prevention obligations on other employing entities as well. It is also noteworthy that members of trade unions, workers' councils and other workers' representatives have been involved in preventing workplace violence and in the ongoing fight against the problem by, *inter alia*, obliging bodies representing workers' interests to consider victims' complaints.

The next chapter of the dissertation is dedicated to Polish standards of legal protection against workplace violence. The considerations presented in the chapter were not limited to a presentation of solutions applicable to individuals who perform work under a traditional employment relationship. What has decisively influenced the content of the chapter is the fact that not only individuals who are employed under a traditional employment relationship, but also other individuals performing work under non-employee employment relationships, including those employed under civil law contracts, are exposed to workplace violence. The above prompted the author to present regulations preventing violence enshrined in the Act on the Implementation of Some European Union Regulations in the Field of Equal Treatment, as well as other regulations specifying the conditions of performing work, including, *inter alia*, the rules governing the performance of work by trainees or unemployed persons undergoing an internship. Considering the need to analyze comprehensively the legal situation of victims of workplace violence, general information concerning the protection measures for victims guaranteed by civil and criminal law was also described.

The analysis of Polish and foreign standards of legal protection against workplace violence has helped to formulate critical remarks on the regulations preventing workplace

violence in Polish law in the fourth and final chapter of the dissertation. Special attention was paid to the issue of differentiation of legal protection measures that are available to victims of workplace violence, as well as the ambiguity of the obligation to prevent workplace violence imposed on employers. The considerations presented in the dissertation justify the conclusion that Polish regulations preventing various forms of workplace violence do not create a coherent model of legal protection protecting the interests of all persons performing work and that the regulations are in fact full of internal contradictions. The principles adopted differentiate the standards of protection against manifestations of workplace violence depending on the type of legal relationship between the victim and the employing entity. As a result, the current regulations do not correspond with the realities of the labour market in Poland, where for several years a common practice has been to replace employment under employment contract with civil law contracts. The limited role of the State Labor Inspectorate, trade unions and work councils was also criticized. Unlike its foreign counterparts, the State Labour Inspectorate and the bodies representing employees' interests have not been equipped with effective mechanisms to combat workplace violence. A critical analysis of the existing regulations facilitated a formulation of postulates for changes in Polish law aimed at better protecting the interests of victims.

The discussions in the dissertation were summarized towards its end. Particular attention was given to the need to amend the Polish workplace violence preventive regulations as they contrast with the achievements of foreign legislators, and as such could be recognized as insufficient protection against the reprehensible phenomenon in question, especially in the context of the requirements of ILO Convention No. 190 concerning the Elimination of Violence and Harassment in the World of Work.

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