

SK&S – Employment Law Newsletter

Supreme Court judgment – equal treatment of employees of various employers

In its judgment of 18 September 2014 (III PK 136/13), the Supreme Court analyzed the situation of an employee who under a voluntary redundancy program received a severance payment lower than the payment offered under a similar VRP to the employees of a dominant company. The respective companies were closely tied in terms of economic and organizational relations. In particular, the dominant company financed the severance payments paid by the subsidiary. The Supreme Court stated that the structure of the controlling company's legal capacity was abused and consequently the employee had the right to compare his situation to the situation of the employees of the controlling company. Consequently, the Court deemed that that the equal treatment principle was violated vis-à-vis employees of the subsidiary.

Supreme Court judgment – priority in re-hiring employees under collective redundancies

Polish law requires an employer to reemploy employees terminated within a collective redundancy if recruitment in the same professional group is carried out within a year of the termination and the terminated employees apply for the position. In its judgment of 20 January 2015 (III PK 52/14), the Supreme Court handled the matter where still before the lapse of such year, the employer recruited staff. The claimants were informed about the recruitment procedure and they notified the employer of their intention to take up work. In the end however, the employer hired other persons which had not been subject to collective redundancies. In the Supreme Court's opinion, the employer was bound to re-hire the claimants, and the failure to do so exposed it to liability for damages. The latter should be calculated based on the amount of the remuneration of the person actually hired by the employer, even if such remuneration was lower than the remuneration received previously by the dismissed employee.

Please do not hesitate to contact us for further information on this topic.



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Supreme Court judgment – disciplinary termination of the employment agreement in breach of the termination deadline

In its judgment of 2 December 2014 (I PK 113/14), the Supreme Court stated that the termination of employment without notice due to the employee's fault was legal in spite of the fact that it occurred in breach of the statutory deadline (one month as from the employer's becoming aware of the breach of duties). The Supreme Court stressed that the employee had delayed the receipt of the correspondence with the termination letter on purpose in order for the monthly deadline to be exceeded. In view of the foregoing circumstances, the Supreme Court dismissed the employee's claims and deemed the claimant to have abused his rights.

