

Supreme Court judgment on compensation for unlawful termination of employment contract

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Legal framework

Facts

Decision

Comment

In its April 22 2015 judgment (II PK 176/14), the Supreme Court ruled that an employee was entitled to damages for the unlawful termination of employment with notice not exceeding the salary of his statutory notice period, even though the notice period had been contractually extended by the parties. This provision does not apply if the parties to a contract have agreed that an extended notice period be included when calculating damages for unlawful termination.

Legal framework

Pursuant to Article 36(1) of the Labour Code, the statutory termination notice periods for open-ended employment contracts depend on an employee's length of service at a given employer and are as follows:

- two weeks for less than six months' employment;
- one month for six months' employment or more; and
- three months for at least three years' employment.

According to Article 47(1) of the Labour Code, damages for unlawful termination of employment with notice should be equal to remuneration of no less than two weeks and not more than three months, and in no case less than remuneration for an employee's notice period.

The parties to an employment contract are free to extend the notice period contractually, provided that it benefits the employee. In such case, the employee is entitled to an extended notice period.

Facts

The employee was employed by a company from May 30 2005 until September 30 2011 on an open-ended contract terminable with six months' notice from the last day of the calendar quarter.

On January 5 2011 the employer terminated the contract with notice, which took effect on September 30 2011. The reason for termination according to the employer was the discontinuation of the employee's role. The employee brought an action against the employer before the labour court arguing that the reason indicated in the termination notice was untrue and thus the termination was unlawful. He claimed damages equal to six months' salary.

In the first instance, the court ruled that the employee's claim was justified, as the employer had breached the law in the termination process (the role had not been discontinued) and awarded him damages equal to three months' salary, as there were no grounds to award damages equal to six months' salary. The second-instance court sustained the judgment and dismissed the appeals submitted by the employee and the employer. The employee appealed to the Supreme Court.

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Decision

The Supreme Court ruled that the employee was entitled to damages for unlawful termination of employment equal to his salary for the maximum statutory notice period.

The court stressed that the employee's notice period had been extended, but the parties had not stipulated that this extension would be included when calculating termination damages. If the parties had stipulated that the extended notice period should be included when calculating damages for termination, this provision would have been fully enforceable. Instead, the contract was restricted to extending the notice period. The court noted that the Labour Code provides for compensation for damages caused by the unlawful termination of an employment contract at a fixed amount irrespective of the damages suffered.

Comment

The judgment confirms the Supreme Court's position regarding the nature and determination of compensation for the unlawful termination of an employment contract with notice. It is favourable to employers and protects them against the unintended side effects of their willingness to provide an additional benefit, such as an extended notice period. The parties are free to agree more far-reaching benefits; however, the terms must be clear.

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