

*Mike Winkler*¹

PUBLIC LEGAL STATUS OF EMPLOYEE RELATIONS IN COMPANIES - COMPARATIVE VIEW

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Abstract

The working relationship of employees in companies is one of the key issues of modern labor and public law. Although the employment relationship is traditionally viewed as a private law relationship between an employee and an employer, modern legal systems are increasingly introducing public law elements into the field of work in order to protect employees, achieve social security and preserve the public interest.

The aim of the work is to analyze the public legal status of the employment relationship of employees in companies with special reference to comparative solutions in the Republic of Serbia, Germany, France, the United States of America and Italy. The paper analyzes the legal sources of labor law, the role of the state in the regulation of labor relations, the protection of employees' rights, inspection supervision and modern challenges of work flexibility.

¹Stabfurt, Germany, e-mail: mike.winkler1@gmail.com [ORCID
https://orcid.org/0000-0002-9096-9995](https://orcid.org/0000-0002-9096-9995)

Special attention is paid to the relationship between the employer's autonomy and public law protection of employees in the conditions of globalization and digitization of work.

Key words: employment relationship, public law, labor law, employee, company, comparative law.

Introduction

The employment relationship represents the basic form of inclusion of an individual in the process of work and economic life. In the classical liberal concept, the employment relationship was predominantly a private law relationship based on the autonomy of the will of the employer and the employee. However, the development of industrial society and the need to protect employees led to an increasing involvement of the state in regulating labor relations (Deakin & Morris, 2021).

Modern labor systems are characterized by numerous public law elements that include legal protection of employees, limitations on the autonomy of contractual parties, collective bargaining and inspection supervision. Through labor legislation, the state strives to ensure a balance between the economic interests of employers and the social security of employees (Constitution of the Republic of Serbia, International Labor Organization [ILO], 2024).

Globalization, the development of the digital economy and flexible forms of work further complicate the legal position of employees. In this context, a comparative

analysis of different legal systems enables a better understanding of contemporary tendencies in the field of public law labor regulation.

1. The concept and legal nature of the employment relationship

An employment relationship is a legal relationship between an employee and an employer in which the employee personally and continuously performs work for the employer for remuneration and under his supervision (Collins et al., 2019).

In the theory of law, there are two dominant approaches to the legal nature of the employment relationship:

1. private law concept;
2. public law concept.

The private law concept starts from the autonomy of the will of the contracting parties and views the employment relationship as a contractual relationship between equal subjects. In contrast, the public law concept emphasizes the unequal position of the employee and the need for state intervention to protect the social rights of employees (Deakin & Morris, 2021).

Modern labor law represents a combination of private law and public law elements (Ugrinov, Čóćkalo, Bakator, 2025). Although the employment relationship is based on a contract, its content is largely determined by the

imperative norms of the state.

2. Public law elements of the employment relationship

The public legal status of the employment relationship is reflected through various mechanisms of state regulation and employee protection. The state prescribes minimum labor standards that include (Labor Law; ILO, 2024):

- minimum wage;
- working hours;
- the right to rest;
- protection at work;
- prohibition of discrimination;
- the right to organize a trade union.

These norms have an imperative character and the employer cannot exclude them with an employment contract (ILO, 2024).

Labor inspection represents one of the most important public law mechanisms for the protection of employees (Pantić, Milojević, Pantović, 2025). Labor inspectors control the legality of employers' work, working conditions and the application of regulations on employee protection (Labor Law; Law on Occupational Safety and Health).

In the Republic of Serbia, supervision is carried out by the Labor Inspectorate at the Ministry of Labour, Employment, Veterans and Social Affairs. Similar bodies exist in other European countries (Ječmenica, Stanišić,

2025).

Modern labor law has a pronounced social function. Through labor legislation, the state tries to prevent the exploitation of employees and ensure social security (International Labor Organization, 2024; OECD, 2024). This function is particularly evident in the following areas:

- protection of pregnant women and parents;
- prohibitions against illegal dismissal;
- protection of disabled persons;
- protection of young employees.

3. Comparative presentation of the public legal status of the employment relationship

Republic of Serbia

The legal framework of labor relations in the Republic of Serbia is based on the Labor Law, collective agreements and international conventions of the International Labor Organization.

The Serbian system is characterized by a pronounced role of the state in the protection of employees through (Labor Law; OECD, 2024a):

- legal regulation of minimum rights;
- safety and health control at work;
- protection against discrimination;
- judicial protection of employees.

At the same time, in recent years there has been a tendency to flexibilize labor relations through the increased

use of fixed-term contracts and other flexible forms of work (OECD, 2024a).

Federal Republic of Germany

The German labor system is based on the concept of the welfare state and the strong role of collective bargaining. Employees enjoy a high degree of legal protection, especially in the area of protection against dismissal and employee participation in company management (European Commission, 2024).

A special feature of the German system is the institute of works councils ("Betriebsrat"), which enables employees to actively participate in decision-making within the company.

The state has a significant regulatory role, but a large part of labor relations is governed by collective agreements between unions and employers.

French Republic

The French work model is characterized by strong state regulation and a high degree of public law protection of employees. The French Labor Code regulates in detail almost all aspects of the employment relationship (European Commission, 2024). The French state actively participates in:

- determination of working hours;
- protect employees from dismissal;
- regulation of collective negotiations;
- social dialogue.

The institute of labor courts, which resolve disputes between employees and employers, is particularly important.

United States of America

The American work system is traditionally more liberal compared to European models. The principle of "employment at will" dominates, according to which the employer can terminate the employment relationship without a special explanation, except in cases of discrimination or violation of the law (Stone & Arthurs, 2013).

However, the state through federal and state regulations provides a certain level of protection for employees, especially in the areas of:

- prohibitions of discrimination;
- minimum wages;
- safety at work;
- rights to union organizing.

The American model gives greater autonomy to the employer, but at the same time increases the risk of employee insecurity.

Italian Republic

The Italian labor system combines elements of the welfare state and a flexible labor market. Traditionally, there has been strong protection of employees against

dismissal, but reforms in recent years have increased the flexibility of employment (Eurofound, 2024).

The state retains an important role in:

- social protection of employees;
- control of working conditions;
- regulation of collective agreements;
- protect trade union rights.

The Italian model seeks to establish a balance between the economic needs of the market and the social security of employees.

4. Contemporary challenges of public law labor regulation

Digitization of work, remote work and the development of platform work have led to new challenges in the field of labor law. More and more employees work outside the traditional employment relationship, which makes it difficult to apply classic public law protection mechanisms (ILO, 2024; OECD, 2024b).

Special problems arise with:

- platform workers;
- freelancer;
- work through digital applications;
- international remote work.

Modern countries strive to find new models of legal protection that will respond to changes in the labor market

while preserving the basic social rights of employees.

Conclusion

The public legal status of the employment relationship of employees in companies is the result of the development of the modern welfare state and the need to protect employees as the economically weaker party in the employment relationship.

Comparative analysis shows that all modern legal systems contain a certain level of public law labor regulation, but they differ in the degree of state intervention and the flexibility of the labor market. European systems generally provide a higher degree of employee protection, while the American model gives greater autonomy to employers.

The Republic of Serbia follows European trends in the field of employee protection, but faces the challenges of flexible work and adaptation to modern forms of employment. The future development of labor law requires the establishment of a balance between the economic interests of the economy and the preservation of the social security of employees.

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Mike Winkler

JAVNOPRAVNI STATUS RADNOG ODNOSA ZAPOSLENIH U PREDUZEĆIMA – KOMPARATIVNI PRIKAZ

Rezime

Radni odnos zaposlenih u preduzećima predstavlja jedno od ključnih pitanja savremenog radnog i javnog prava. Iako se radni odnos tradicionalno posmatra kao privatnopravni odnos između zaposlenog i poslodavca, savremeni pravni sistemi sve više uvode javnopravne elemente u oblast rada radi zaštite zaposlenih, ostvarivanja socijalne sigurnosti i očuvanja javnog interesa. Cilj rada jeste analiza javnopravnog statusa radnog odnosa zaposlenih u preduzećima sa posebnim osvrtom na komparativna

rešenja u Republici Srbiji, Nemačkoj, Francuskoj, Sjedinjenim Američkim Državama i Italiji. U radu se analiziraju pravni izvori radnog prava, uloga države u regulisanju radnih odnosa, zaštita prava zaposlenih, inspeksijski nadzor i savremeni izazovi fleksibilizacije rada. Posebna pažnja posvećena je odnosu između autonomije poslodavca i javnopravne zaštite zaposlenih u uslovima globalizacije i digitalizacije rada.

Ključne reči: radni odnos, javno pravo, radno pravo, zaposleni, preduzeće, komparativno pravo.

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