

Paweł NOWIK, *Pojęcie równowagi prawnej w zbiorowym prawie pracy*, Lublin: Wydawnictwo KUL, 2016, 262 pages, ISBN 978-83-8061-278-5.

DOI: <http://dx.doi.org/10.18290/rnp.2018.28.2-10en>

In 2016, a monograph entitled “The concept of legal equilibrium in collective labour law” was published in Lublin. At that time, the system of collective labour law was being developed because the scope of legal equilibrium had started to extend its traditional area of application, where the employer and trade unions play a very important role. In the context of collective labour law, the term “equilibrium” was quite often construed in an intuitive way. However, this term can be interpreted in multiple ways.

The work under review was written by Paweł Nowik. The author is an employee of the Department of Labour and Social Insurance Law of the John Paul II Catholic University of Lublin. He completed his doctoral studies in the field of labour law and social security, defending his doctoral dissertation, entitled “A negotiation system of controlling remuneration for work in Poland,” under the supervision of Grzegorz Goździewicz. He focused his interest on scientific research concerning the system of remuneration for work and the system of collective bargaining.

The publication is addressed mainly to scientists dealing with labour law and those who in their professional life deal with the application of this branch of law. Therefore, the book is addressed mainly to advocates, judges, legal advisers, but also to trade union activists and employers. The aim of the publication is to answer the question: can the application of the definition of “legal equilibrium” become an appropriate tool for theoretical and legal analysis of individual institutions dealing with collective labour law? The author’s deliberations have the character of a doctrinal study, with scientific inquiries playing a very important role. Such considerations are also related to the definition of key concepts, as well as a description of institutions and social relations in the field of collective labour law. The author examined the methods of regulating collective labour law, as well as the subjective and material aspects.

The monograph comprises four chapters: I “Legal equilibrium—general issues,” II “Juridisation of legal equilibrium in collective labour law;” III “Legal equilibrium in the process of co-creation of labour law and participation of employees in workplace management;” IV “Legal equilibrium vs. a collective dispute.”

In the first chapter, the author provides terminological explanations which show different ways of analysing the concept of “legal equilibrium.” Nowik presents the definitions of this notion, which was considered against the background of individual labour

law. The author presented the views of legal doctrine, presented, among others, by Maciej Świącicki, Waclaw Szubert, and Tadeusz Zieliński. He also characterised the rights and obligations of the parties to the employment relationship and conflicts of interest resulting from such cooperation. He discussed in detail the rights and obligations arising from the employment relationship for both the employer and employee. With respect to the functioning of the labour law system, he divided interests into two categories. The first is the legal interest of the employer and employee. The second category is the interest of each party involved in the employment relationship. He also presented the elements affecting the legal equilibrium of the parties to the employment relationship. Due to the fact that collective labour law stems from individual labour law, as well as providing terminological explanations in the first chapter, Nowik outlined its historical and doctrinal context. The aim was to show the sources in the research on employment relationships, which form an inseparable part of collective labour law. In this chapter, the author attempted to juxtapose the concepts of “legal equilibrium” and “the function of law” in order to show the role of the previously mentioned concepts in the doctrine of collective labour law.

In the second chapter, Nowik focused, to a large extent, on the mechanism of juridisation of the equivalence of social partners. He also considered legal equilibrium as an analytical category in collective labour law. In order to properly understand the mechanism in which collective labour law affects the legal relations between employers and employees, it is necessary to recognise the multi-stage and complex nature of the legislator’s activities. Any measure taken by the legislator in the field of collective bargaining is determined by the axiology of human rights, which involves a frequent occurrence of contradictory interests; it may include the protection of the interests of employees as well as employers. Equality of social partners and the principle of limited role of the legislator and the principle of equal treatment of social partners play a very important role in legal equilibrium. The author also referred to the axiological conditions of legal equilibrium, which are contained in the Constitution of the Republic of Poland. He presented this concept as a constitutional, instrumental value. He also discussed the concept of the common good, the principle of subsidiarity and the principle of justice and social solidarity. Taking into account the fundamental normative act applicable on the territory of the Republic of Poland, he reasoned that the ultimate determinant of legal equilibrium is the principle of subsidiarity, whose role is to reinforce the rights of citizens and their communities.

The third chapter presents the issues of industrial relations in the field of labour law. The author drew our attention to the institution of collective bargaining as an instrument of legal equilibrium. He regarded collective bargaining as an essential tool for achieving legal equilibrium, presenting its origins in detail. In the following section, he analysed the normative acts concerning collective bargaining. Importantly, his research was to show the interaction of law and collective bargaining, as well as the special role of axiological rules. Nowik also made reference to entities entitled to conduct collective

bargaining. He also raised the issue of representative participation and the problem of legal equilibrium, analysing the issue of different forms of collective consultation.

In the last chapter, the author focused primarily on the issue of conflicts of interest that occur in labour law. He noted that each entity with law-making authority in the employment relationship affects the intensity, scope and severity of conflicts of interest. In practice, a conflict of interest between the employer and the employee is inevitable, as this is due to different attitudes towards the work performed. He discussed the situation in which a conflict of interest is transformed into a collective dispute. He presented the subjective and objective scopes, as well as legal institutionalisation of a conflict of interest. He then pointed out to the procedure for resolving collective disputes. Trade union organisations, which represent the rights and interests of all employees, may make use of the procedure for the resolution of an industrial dispute arising from the employment relationship. The first stage involves bargaining. If no agreement is reached at this stage, the parties may move on to the next one, which is mediation. However, if still no consensus has been reached, the parties to a collective dispute may take part in arbitration. The last stage of the procedure for resolving collective disputes in the field of labour law is industrial action.

I believe that the monograph “The concept of legal equilibrium in collective labour law” is an excellent resource not only for individuals who deal with labour law in their professional life, but also for students of law and other related fields of study. If you are interested in the issue of legal equilibrium in the field of labour law, you will find all the information you need in this work. In addition, the topic is presented and analysed in an extensive manner. It also provides exhaustive answers to questions related to the issues under research. The layout of the book is clear and owing to that the reader should not have any difficulty finding any relevant information. This is a useful publication for those who wish to broaden their knowledge of industrial action based on the concept of legal equilibrium.

*Daria Mikos, BA*

*Institute of Law*

*John Paul II Catholic University of Lublin*

*e-mail: daria3425@o2.pl*

*Translated by Tomasz Pałkowski*



The preparation of the English version of *Roczniki Nauk Prawnych (Annals of Juridical Sciences)* and its publication in electronic databases was financed under contract no. 836/P-DUN/2018 from the resources of the Minister of Science and Higher Education for the popularization of science.