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Abstract

In the present paper the author delves into the employment, and therefore the employment contract of doctoral candidates. While it is common in Germany to do a doctorate alongside an occupation at the university of graduation there is little to no research concerning the specific employment law for this job. In winter term 2014/2015 124,900 doctorates have been confronted with the challenge to cope with their labours tasks as well as to proceed with their thesis. In the first chapter the paper analyses, whether the dissertation itself – the process of completing the doctoral thesis – is part of the obligations deriving from the labour contract. While contracts often do not answer this question, there is a statutory rule: § 53 II Hochschulrahmengesetz (HRG). Hereafter autonomous research is part of the obligation itself. As deriving from research the development of a thesis is therefore duty as well. This is only stated though, for employment contracts which are negotiated for graduation purposes. So close analysis of the declarations of intention resulting in the conclusion of the contract is nessecary. Hereby the frame conditions of the agreement have to be taken into account. The article proceeds with questions around the impact the PhD candidate's supervisor has concerning the thesis

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itself. The authority to give directives deriving from the labour contract is limited by the constitutional freedom right in Art. 5 III S. 1 Grundgesetz. A balance between organizing research and teaching on the one hand as well as promoting the dissertation on the other hand results in the limitation of authority to only setting basic parameters. Finally the author states minimum conditions resulting from § 53 II HRG considering the time the doctoral thesis supervisor – who is employer at the same time – has to grant for working on the thesis. The intention of the statutory rule was to secure a minimum of spare time for the doctorates to indorse their work against occupation with other tasks. According to surveys, doctorates invest 3.5 hours daily in developing their dissertation in average. This quantity is a minimum granted by law, so instructions violating this minimum are void by law. This controverts the practice of employment performed by the universities all over Germany providing labour contracts with even less working hours that reduces the chances of many young academics to gain experience with teaching and research. (HRK / Abstract übernommen)