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**A SECURE PAST, A FLEXIBLE FUTURE: LABOUR LAW IN THE
LIGHT OF DIGITALISATION**

THESES OF THE PHD DISSERTATION

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Miskolc

2026

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I. Subject and the aim of the dissertation

Distinguishing between different types of employment-related legal relationships is one of the most sensitive issues in modern labor law regulation. Work can be performed not only within the framework of an employment relationship but also under other types of legal arrangements. Distinguishing between these relationships is of particular importance, as it is within the framework of an employment relationship that the person performing the work enjoys the protections afforded by labor law. While differentiating between various employment-related relationships has long posed significant challenges, a relatively stable doctrinal framework had previously been established for their classification. However, rapid technological changes in recent times are significantly disrupting this established framework. Many of the changes occurring in the world of work stem from digital influences, which both offer and demand increasingly flexible arrangements from the parties involved in these legal relationships. Although the subject matter of labor law is non-independent, dependent work, these changes are creating an environment that significantly blurs the boundaries between different types of employment-related relationships. Consequently, individuals performing work in vulnerable positions find themselves falling outside the protective scope of labor law. The research examines emerging labor law issues primarily through the lens of the situation of platform workers. Platform work typically entails a tripartite employment arrangement organized on the basis of civil law, wherein the individual performing the work operates under a mandate or service contract. The party providing the platform typically supplies an application interface that connects the service provider, the service recipient, and the platform worker performing the task. The paper analyzes the critical aspects of the legal relationship involving platform workers by applying the system of classification criteria used in Hungarian judicial practice. Its aim is to elucidate why this relationship cannot be unequivocally classified as an employment relationship, despite the presence of several labor law classification criteria alongside civil law characteristics. The study also seeks to explore potential ways to reform the classification procedures.

The issue at hand can thus be described as classic, however, it is resurfacing due to new work organization methods driven by digital transformation, which lends topicality to the choice of subject.

The objectives of this paper include examining the mechanisms by which current Hungarian labor law regulations facilitate flexible employment within the framework of individual labor law. The regulatory framework expands the scope for agreements between the parties, reflecting a stronger civil law perspective. Platform workers typically perform their tasks within the framework of civil law relationships, lacking the protections afforded by labor law. As labor law flexibility increasingly aligns with civil law principles, the research examines the relationship between labor law and civil law, focusing primarily on delineating the boundaries of dependent work. In addition to mapping the advantages and disadvantages of flexible employment, a key aspect of the study is determining whether flexibility can be increased without compromising labor law protections. One facet of this analysis involves assessing whether the level of protection for the party performing the work can be enhanced through civil law mechanisms and, if so, how this might be achieved. The study extends to a civil law and labor law analysis of the legal relationships established through platform work. Furthermore, the paper aims to explore theories and legal frameworks that facilitate enhanced protection for individuals engaged in these new forms of work. The research also seeks to provide insight into potential concepts for reforming labor law regulations.

II. Sturcture and methodology of the dissertation

The research typically examines the selected topics using historical, analytical, and comparative legal methods. Certain sections of the thesis are descriptive in nature, given the character of the subject matter. The work explores the topic by incorporating not only labor law but also other areas of law - an approach necessitated by the subject's strong connection to the question of labor law's status as a distinct legal branch. Parts of the paper also touch upon other disciplines, such as statistics and sociology.

In terms of its structural layout, the paper addresses the topic across five major chapters. These chapters are further divided into subsections designed to systematize the various related issues and their specific aspects. I have endeavored to structure the individual sections of the paper based on a systems-oriented approach.

In the introductory section of the thesis, I introduce the problem and define the objectives of the study against the backdrop of an environment transformed by digital changes.

I intend to ground the research in a historical overview. The primary justification for this is the need for a doctrinal foundation, at the same time, the historical overview aims to examine the patterns of development in labor law, particularly during periods of significant economic or social change. This historical review offers an excellent opportunity to gain insight into the evolution from a system of employment organized entirely on private-law principles to one characterized by substantial state intervention. The historical section concludes with a general overview of the current Labour Code, providing a comprehensive picture of the present state of labor law regulation.

The next chapter of the paper aims to present certain dimensions of the concept pair of flexibility and security. In doing so, the research identifies the economic and social changes exerting strong pressure towards greater employment flexibility. The chapter also provides an overview of efforts to increase employment flexibility within the European Union.

Labor law imposes fundamental limits on the choice of contract type within the framework of freedom of contract. The emergence of new forms of work thus raises questions regarding freedom of contract, an issue analyzed at the beginning of the fourth chapter. Subsequently, the chapter reviews the relationship between civil law and labor law and discusses the inclusion of the employment contract as a named contract in the Civil Code. It also examines the dependent status of the subordinate

party within the legal relationship, presenting the theories that underpin this concept of dependency alongside their respective shortcomings. This state of dependency is undergoing transformation due to digital influences - a shift illustrated here through the situation of platform workers. By examining the legal status of platform workers, the chapter analyzes the points of connection between intermediary contracts and the temporary agency work arrangement.

One significant means of increasing the flexibility of labor law regulations is expanding the scope for agreement between the parties. The current Labor Code has moved in this direction. However, assessing the free and uninfluenced will of the parties presents significant difficulties within the context of asymmetrical legal relationships. Therefore, this research examines the boundaries of uninfluenced employee declarations in the context of employment. Finally, I analyze the Curia's decision (Case No. Mfv.VIII.10.091/2023/7) regarding the classification of platform work, applying the criteria used in legal practice to classify contracts serving as the basis for work performance.

Chapter fifth presents the legislative efforts aimed at improving the situation of platform workers. In 2024, the European Union adopted the Directive on improving working conditions in platform work, the objectives of which Member States must transpose into national law by 2 December 2026. Furthermore, on 12 June 2026, the International Labour Organization adopted Convention No. 193 to address deficits in decent work within the platform economy. The two documents are analyzed both individually and in relation to one another. The chapter also outlines potential future legislative trends, formulating comprehensive concepts and specific legislative proposals regarding certain legal mechanisms. Finally, the research critically evaluates potential legal mechanisms that offer further opportunities to enhance regulatory flexibility.

III. Brief summary of the scientific results

The historical analysis demonstrates that, within a market economy framework, employment based exclusively on private law principles - combined with absolute freedom of contract - leads to severe social and economic problems. Consequently, preventing the exploitation of workers is a fundamental interest of the state. Labor law evolved from a system rooted in private law, with its primary function being to limit freedom of contract to a certain extent in order to protect the more vulnerable party in the legal relationship. The evolution of labor law has also yielded experiences where state intervention proved highly valuable, during such periods, labor relations were characterized by the dominance of mandatory (cogent) norms, restricted decision-making autonomy for the parties, and rigid state control - representing a departure from civil law principles. In contemporary labor law, however, a civil law perspective is once again playing a more decisive role. The historical overview reveals a cyclical pattern in the way labor law moves closer to and further away from civil law. The trend towards a civil law approach typically emerges alongside sudden technological leaps, followed by a period of regulation. This overview confirms that labor law flexibility is significantly influenced by the growing prevalence of civil law principles within labor regulations. Although the current Labor Code expands the scope for agreements between the parties - thereby facilitating a contractual regulatory approach - experience suggests that statutory constraints defining the employment status remain dominant. Later stages of the research confirm that the concept of an employee entering into an agreement free from external influence is difficult to reconcile with the framework of an employment relationship. All of this poses significant obstacles to the effective functioning of a regulatory system based on agreements between the parties.

In the subsequent part of the research, I examined various approaches to the concepts of flexibility and security. I identified the factors driving the shift away from traditional employment law and sought to shed light on the underlying dynamics. These factors include, among others, cost rationalization, the growing demand for employee-driven flexible work schedules, and the relaxation of the employer's authority to issue instructions and exercise control. Flexibility serves as the common driving force behind these identified effects. A rising demand for flexibility is evident both within and outside the scope of employment law. There is a growing trend in the number of

workers engaged in atypical forms of employment recognized by labor regulations, as well as those working within the platform economy. European Union initiatives demonstrate a push to stimulate and support flexible work arrangements, while simultaneously emphasizing the importance of maintaining security and establishing legal safeguards. In practice, however, flexible solutions tend to take hold much more rapidly than effective security mechanisms. The demand for flexibility further intensifies the competition between traditional employment relationships and other forms of work. The nature of security is also undergoing a significant transformation, as the focus shifts increasingly from job security to broader employment security. The research confirmed that the demand for flexible employment arises not only from employers but also from employees. This is primarily driven by the increasingly widespread recognition of the right to balance work and private life.

In the next part of the paper, I examined certain aspects of freedom of contract. The research confirmed that the limitations placed on freedom of contract serve as the primary safeguard. Expanding the scope of freedom of contract entails significant risks, typically exacerbating the vulnerable position of the party performing the work. While increasing flexibility generally disrupts or restructures existing protections, it does not necessarily result in a reduction of the level of protection. Making regulations more flexible clearly represents a shift towards civil law rules. The research also addressed the issue of the employee's status as a consumer. Consumer status offers a means to further strengthen labor law protections, moreover, the civil law protection afforded to consumers reinforces the principle that additional protection can be secured - even on private law grounds - in legal relationships characterized by an imbalance of power. This is particularly significant regarding the situation of platform workers. An analysis of the nature of platform work in the fourth chapter concluded that the hybrid civil law agreement established between the parties combines features of intermediary services with elements of temporary agency work. The choice of contract type - an element of freedom of contract - poses a significant challenge in distinguishing between legal relationships, as work can be performed within both civil law and labor law frameworks. This distinction is rooted in the differentiation between independent and dependent work. The foundation of this lies in substantiating the state of dependency. However, the set of criteria established to verify such dependency fails to adequately address the situation of platform workers, even though vulnerability and dependency are indeed present. Certain employer prerogatives manifest within the

legal relationship - albeit in a different guise - necessitating a re-evaluation of the criteria used to define and distinguish the nature of that relationship. In the case analyzed by the Curia (Case No. Mfv.VIII.10.091/2023/7), the plaintiff was a platform worker acting as a food courier, while the defendant was the platform operator facilitating transactions between restaurants and customers. When examining the nature of the activity, the Curia did not classify the performance of the tasks stipulated in the contract as an agreement on a specific job role, reasoning that the defendant had no influence over the manner of performance. In my view, however, when examining the nature of the activity, one cannot overlook the fact that the tasks received via the application are not individually predetermined. Regarding the defining characteristic of an employment obligation, the Curia took the position that, since the plaintiff had no fixed working hours, the concept of an employment obligation was inapplicable. In my opinion, however, an employment obligation is not relevant solely in cases where the employer schedules working hours and the parties agree on a specific number of working hours. Although the contract between the parties allowed the worker to decide when and for how long to work, the platform operator undertook an obligation to provide work when a demand arose or to compensate the platform worker for their availability. Examining the relationship of subordination and superordination also requires a fresh perspective, as it is of decisive importance that a party other than the one performing the work realizes economic benefit. This fact substantiates the existence of non-independent work and a relationship of subordination. Regarding the authority to direct, issue instructions, and exercise control, the Curia took the position that broad authority to issue instructions and direct work could not be established, because the plaintiff possessed significant discretion - for instance, in choosing the route. In my view, this finding is erroneous, as factors dictated by the very nature of the work's performance should not be given weight in this context. The discretion regarding the route is merely apparent, given that the worker has a significant interest in selecting the fastest route. When examining the use of work equipment, the Curia concluded that the worker provided the equipment, thereby confirming the existence of a contract for services. This conclusion is incorrect, in the case at hand, the platform operator provided the work clothing and thermal delivery boxes - items the Curia dismissed as mere marketing ploys. In my opinion, any piece of equipment bearing the platform operator's logo clearly demonstrates that the worker is acting on behalf of another party and is not operating independently among market participants.

An examination of the defining criteria has revealed the points at which platform work falls outside the scope of labor law. The analysis highlights that the traditional approach to these criteria is outdated and that a review is necessary. It demonstrates that, while most of the previously used criteria remain fit for purpose regarding classification - and the evaluation aspects themselves are appropriate - the substantive examination of individual elements requires a new approach.

In the final substantive chapter, I examined current legislative trends. A major step forward in improving the situation of platform workers - offered by the European Union directive on improving working conditions in platform work - is the establishment of a presumption of an employment relationship where facts indicating direction and control are identified. However, the directive grants Member States significant leeway in defining the criteria for such classification. While it places the platform worker in a more favorable position by shifting the burden of proof, it fails to provide an effective solution to the most problematic issue: the classification of the legal relationship itself. Furthermore, the directive's personal scope covers only a portion of the platform economy. Compliance with the directive can be ensured in various ways. In my view, it would be advisable to enact legislation that modernizes and regulates the criteria for distinguishing employment-related legal relationships, while also incorporating the rebuttable presumption set out in the directive. Additionally, to ensure effective legal protection, I consider it necessary to expand the categories of atypical employment relationships within the Labor Code to account for the specific characteristics of platform-based work.

The International Labour Organization (ILO) adopted Convention No. 193 to address deficits regarding decent work in the platform economy. The ILO Convention focuses on extending general principles rather than on the legal classification issues central to the EU Platform Work Directive, nevertheless, regarding classification, the ILO Convention also prioritizes a fact-based approach. In terms of scope, the ILO Convention covers a wider range of platform economy actors, although it does make significant distinctions based on compromise in certain instances - such as the application of minimum wage rules, which primarily apply to platform workers within an employment relationship. The substantive scope of the ILO Convention is also broader than that of the EU Platform Work Directive, addressing areas such as social security, minimum wages, and fundamental requirements for decent work. While the status of platform workers requires regulation, the initial regulatory solutions represent

a cautious step forward in this field. Although the drafts of both documents were far more ambitious and promised stronger legal protections in certain respects, they nonetheless stand as important milestones in regulating the sector.

Finally, the paper outlines potential future concepts regarding labor law regulations and formulates 'de lege ferenda' proposals concerning specific legal institutions. Academic literature identifies several possibilities for the future of labor law, including enhancing the role of contractual elements or fundamental and universal principles, as well as strengthening atypical working arrangements. Personally, I consider it advisable to further differentiate domestic regulations, thereby offering greater flexibility alongside the establishment of additional safeguards. These safeguards need not be limited to measures ensuring the continuity of the employment relationship, they may also include supplementary remuneration components that bolster financial security. The research highlights specific legal institutions that, in my view, could provide increased flexibility or enhanced protection. This includes expanding the employee's formative rights - specifically for employees raising children - and considering the introduction of a new atypical form of employment into the Labor Code, modeled on the concept of zero-hour contracts. Such proposed amendments are essential to ensure that employment within the framework of an employment relationship remains sufficiently attractive amidst the competition among various types of work-related legal relationships.

IV. Publications of the author in the topic of the dissertation

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