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**The importance of Occupational Health and Safety for the determination of
employer liability for damages**

Practical aspects of employer liability in labour law and occupational health and safety

PhD Dissertation
Theses

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I.

A brief summary of the research task

In my dissertation, I examine the employer's liability for workplace accidents from both labour law and occupational safety law perspectives. The central hypothesis of my research is that violations of health and safety regulations contribute to employer liability. I analyse this assertion in the context of the legal literature, procedural practise and the employer's activities. The latter aspect is particularly important because an employer's influence on employees and working conditions is shaped not only by its attitude to health and safety but also by external factors. This is particularly relevant because I have extended my examination of employer liability and occupational safety obligations to include the most significant external circumstances in recent years. The impact of the COVID-19 pandemic and the energy crisis has not only affected the economy, but also the health and safety obligations of employers in the workplace, which in turn affects their liability for damages.

In the final phase of my research, I present proposed solutions aimed at improving workplace safety, reducing the number of workplace accidents and influencing employers' liability. To this end, I discuss the importance of mandatory employer liability insurance, the use of innovative technological tools in occupational safety and the role of effective advocacy.

II.

I have conducted my research using both dogmatic and empirical methods. In my effort to provide a comprehensive analysis of employer liability and occupational safety, I first examined court decisions and case studies from occupational health and safety authorities. My analysis focused on the occupational safety requirements imposed on employers when investigating workplace accidents and assessing liability, and the consistency of these requirements across different proceedings.

I investigated the impact of the pandemic on workers' health based on Hungarian and international statistical analyses and interviews conducted at the National Public Health Centre (hereafter: NPHC). Using the publicly available data of the NPHC and the guidelines of the Occupational Health and Safety Authority on COVID-19-related occupational health and safety obligations, I identified the newly created responsibilities of employers, the risks to employees and, consequently, the relevant aspects of employer liability for damages.

As a scholarship holder of the Gyula Rézler Foundation, I had the opportunity to expand the chapter of my dissertation analysing the energy crisis through empirical research. In addition to a doctrinal analysis of the emergence of the energy crisis and its impact on workplace safety, I conducted a survey among employees of small and medium-sized enterprises (SMEs) operating industrial plants. The research focussed on the winter and summer months, which were most affected by the crisis, and paid particular attention to the relationship between workplace temperature and employers' crisis management strategies

In addition, I conducted surveys and interviews with employers of small and medium-sized enterprises (SMEs) to investigate their attitudes towards occupational health and safety, their experiences with labour compensation procedures and the feasibility of the requirements imposed by courts and regulatory authorities. The dissertation also incorporates the results of other research work, including the application of big data methods in the field of occupational safety as part of TINLAB and the results of the ADAPT HEAT project led by the Fundación Primero de Mayo with the support of the European Union, which is investigating the relationship between heat stress and occupational safety. Both studies used empirical methods, including interviews with health and safety experts, consultations with trade unions, impact assessments and analyses of occupational accident reports.

III.

The Main Insights of the Research

The research results suggest that in liability proceedings related to workplace accidents, courts analyse the employer's compliance with occupational safety obligations, but focus primarily on risk assessment, occupational safety training and the employer's supervisory duties. In this regard, courts tend to place unreasonable expectations on employers and often fail to consider professional health and safety opinions— - even though they are not required to do so — resulting in legally sound but safety deficient decisions. Rather than simply expecting constant monitoring by the employer in relation to certain workplace accidents, the courts should focus on identifying the actual causes of such incidents. In contrast, after analysing the case studies, the health and safety authorities determine employer liability on the basis of actual deficiencies in workplace safety. For example, they only impose sanctions for inadequate supervision if it was a legally relevant factor in preventing the accident within the meaning of the health and safety laws. This highlights the need for a more uniform approach to the employer's obligations in liability proceedings for accidents at work.

The employer's activities were also significantly impacted by external factors, in particular the COVID-19 pandemic and the energy crisis. COVID-19 introduced numerous new health and safety obligations, some of which provoked strong public reactions, such as compulsory vaccination. In addition, the increase in teleworking and working from home brought new challenges, particularly with regard to the categorisation of accidents that occur at home as occupational accidents. However, the most significant impact of COVID-19 has been observed in the area of occupational diseases. The categorisation of COVID-19 as a biological risk factor enabled COVID-19 infections to be recognised as occupational diseases. The research results show that the number of reported cases of suspected occupational diseases caused by COVID-19 has increased significantly. In addition, the recognition of occupational diseases has been extended to workers who do not fall within the regulatory scope of biological risk factors, such as teachers. This raises new questions regarding employer liability, as they were expected to fulfil requirements that did not originally apply to them.

The energy crisis driven by rising energy prices has also had an impact on working conditions and led to temperature fluctuations in workplaces. Insufficient heating in winter and insufficient cooling in summer had a direct impact on workers' health. A survey of workers in SMEs found that while workplace temperatures were lower in winter, physical labour helped to keep temperatures within legal limits in more than 50% of the cases surveyed. In the summer of 2022/2023, workplace temperatures often exceeded regulatory limits, but workers reported that conditions were more challenging in winter. The research also found that employers do not always consider workplace temperature and employee needs when selecting workwear and personal protective equipment. However, they generally comply with the minimum legal requirements in this regard.

Finally, on the basis of the synthesis of all the research based on interviews and surveys, I have formulated recommendations that could contribute to the prevention of accidents at work or help employers to reduce their liability for damages. Firstly, I emphasise the importance of employer liability insurance, a concept that has already been explored in the academic literature. Such insurance could provide employers with financial security in the event of significant compensation or pension claims. In addition, it could increase safety in the workplace, as control by insurers could be a strong incentive for employers to comply with health and safety regulations.

The use of innovative technologies in occupational safety could significantly improve prevention efforts. An analysis of case law and reports on accidents at work shows that employee negligence or non-compliance with safety regulations often contribute to accidents.

These risks could be mitigated by modern technological solutions, such as virtual reality (VR) training, which has already been explored in technical research. The introduction of online risk assessment tools such as the European Union's OiRA platform in Hungary could enable smaller companies to recognise and mitigate basic workplace hazards without the help of occupational safety professionals.

I have also analysed the potential applications of artificial intelligence (AI) in occupational safety. My findings suggest that AI could play a crucial role for authorities by automating the categorisation of workplace accident reports and reducing administrative burden. In addition, the development of an AI-driven database could help employers to recognise risks in the workplace and take preventive measures, which would ultimately help to prevent accidents at work.

IV. Relevant publications by the Authors

📖 **TÓTH, Kinga:** *ADAPTHEAT Hungarian Report*, Confidential National Report within the EU-funded ADAPTHEAT Project (2023).

📖 **TÓTH, Kinga:** *The Impact of COVID-19 on Occupational Diseases and Workplace Accidents*, Munkajogilap, 2022/III. (2022).

📖 **TÓTH, Kinga:** *Practical Issues of Employer Liability for Damages*, Jogi Tanulmányok (2021).

📖 **TÓTH, Kinga:** *Employer Liability in Labour Law*, ARBONI 2018. Article Writing Competition (2018).

📖 **TÓTH, Kinga:** *The importance of health and safety in the liability of employers for damages*, *Pro Futuro*, 12(1), 175-191. <https://doi.org/10.26521/profuturo/2022/1/11314>.

📖 **TÓTH, Kinga:** *The Role of Occupational Safety in Legal Procedures Related to Health Impairments*, *XXVII. Spring Wind Conference 2024*, Abstract Volume, p. 141. <https://dosz.hu/...>

📖 **TÓTH, Kinga:** *The Role of Occupational Safety in Legal Procedures Related to Health Impairments*, *Vol. I, XXVII. Spring Wind Conference*, Proceedings (2024).

📖 **TÓTH, Kinga:** *Review of a Fatal Workplace Accident in an Automotive Parts Plant*, Bachelor's Thesis, BME (2024).

■ **TÓTH, Kinga:** *Application of Big Data Methodology in Occupational Safety*, Jogi Tanulmányok (2024).

■ **TÓTH, Kinga:** *Lessons Learned from an Occupational Safety Research*, Munkajogilap, 2023/3., pp. 42-48 (2023).