

**Legal questions regarding special protection against unfair dismissal
pursuant to sec. 15 of the German Protection Against Unfair Dismissal Act
in the context of restructurings**

- Abstract of the submitted dissertation by Valentin Samuel Lang -

The dissertation examines the works council members' special protection against unfair dismissals pursuant to sec. 15 of the German Protection Against Unfair Dismissal Act in the context of operational restructurings.

The effects of restructurings on the employment relationships in general and on the representative bodies of the employees in particular are highly relevant in practice and often subject of case law and legal literature. Yet, there is still a lack of clarity as to how restructurings affect the works council members' special protection against unfair dismissal. With sec. 15 of the German Protection Against Unfair Dismissal Act and sec. 103 of the Works Constitution Act, the legislator has only created a basic framework of provisions. These provisions are intended to guarantee the works council members' independence in the exercise of their duties. In addition, the provisions are intended to ensure the personnel continuity of the works council. Therefore, the employer's right to give notice of termination to works council members is restricted and, as a general rule, is subject to the approval of the works council. Highly disputed, however, is the scope of protection in the context of operational restructurings.

After a brief overview of the legal structure of the special protection against unfair dismissal provided by sec. 15 of the German Protection Against Unfair Dismissal Act and sec. 103 of the German Works Constitution Act and a systematisation of the types of restructuring, all types of restructuring are examined in detail with respect to their effects on the legal position of works council members. The author examines closures of operations or departments and the legal pre-conditions for a valid redeployment of works council members. The main focus of the dissertation is the Federal Labour Court's case law on relocations of operations. Furthermore, cross-operation restructurings and (partial) transfers of operations are examined with respect to their effects on the works council members' special protection.