



Das Festhaltensrecht im AÜG – Vorschlag zur grundlegenden Neugestaltung und Überlegungen zur verfassungskonformen Auslegung

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Abstract

This thesis deals with a newly introduced right in the German Temporary Employment Act (AÜG), which allows agency workers to adhere to their contractual employer, in case of legal transfer of the employment relationship. The AÜG provides for certain cases of illegal behaviour of the agency that the employment contract between the agency worker and the agency be null and void. Instead, the AÜG assigns the worker into a statutory employment relationship with the hirer. In order to allow the worker to oppose any undesired change of employer, the AÜG grants the worker the right to adhere to the employment relationship with his/her contractual employer ("*Festhaltensrecht*"). However, the right of adherence has been designed in a manner that prevents any effective exertion of said right. In this thesis, I scrutinize whether the right of adherence is imperative to protect the worker's freedom of occupation as protected under the constitution, and I show how the right of adherence must be changed or interpreted in order to fulfil this purpose.