

Non-competition clause

Abstract

This thesis deals with the institute of the non-competition clause. The main aim of this thesis is to describe this institute, evaluate how much is the current legislation corresponding to the 21st century's changes and whether it is still applicable in practice. In this work, the author is focusing not only on nowadays problems, but he is also considering historical problems, which he is examining and consequently also analysing properly. The author also offers the reader his solutions and considerations *de lege ferenda* with the aim of further good development of the competition clause as a functional and important institute of labour law.

To achieve these goals, the author in the first part of this thesis gives a brief overview of the historical background of the ban on competitive conduct in the Czech lands, both during the period of employment and after its termination. In particular, the author focuses on the historical context of the emergence of a competition clause and its historical development where we can find an interesting historical paradox, as this institute often worked vividly in practice, despite the obvious outdated legislation at that time. The author wants to emphasize the important role of courts and judges in the development of the competition clause, in particular by their interpretation of law, which was not always an easy task, but for that reason the interpretation was even more important for legal certainty of the parties and the correct using of the non-competitive clause. The author is also focusing on the influence of major historical events to get a better background for current legislation.

In the second part of the thesis, the author uses a solid historical basis regarding the non-competition clause set out in the first part of this thesis and makes a detailed analysis of the current legal regulation of the non-competition clause and focuses on current problems associated with it. The author also reflects on the meaning and purpose of the competition clause, in the light of historical and present case law, discusses the individual parts and theoretical dimensions of this institute including its obligatory form, issues of disability and cogency, current legal establishment, its origin and termination, financial compensation, contractual penalty and, last but not least, the possible linking of the institute of non-competition clause with unfair competition. The author achieves the goals he has set with the help of case law, both current and historical, with the necessary consideration of professional literature and several professional articles, including internet sources.

Thanks to such a wide base of resources, the author achieves his goals and creates a brief historical overview of the development of the competition clause through this work, which can serve as a source of inspiration for future regulation and also can serve for better understanding of current legislation. The author complements the problematic issues with relevant case-law, which has already dealt with the issue to a certain extent and thus offered the parties certain solutions. Consequently, the author offers the reader his reflections on current problems and their possible ways of solving, while at the same time reflecting on the possible future development of the competition clause.

Key words: competition clause, labour law, non-competition after the termination of employment