Abstract (English)

The presented work deals with the position of persons who are supposed to perform the function of a member of the statutory body of a legal entity in the employment relationship, as the status of these members of the statutory body has been disputed in Czech law for a very long time. Since approach to this issue in the neighboring Federal Republic of Germany is equally interesting and the professional public, including the German Federal Court of Justice, regularly expresses itself to the question of the concurrence of employment and membership in the statutory body of a business corporation at least since the middle of the last century, I have chosen a comparison of approaches in Germany and the Czech Republic to this issue as a tool for explanation of the whole issue, familiarization with the view from a different angle and also for obtaining of any inspiration for solving this legal issue in Czech law.

With the help of the descriptive, analytical and comparative method I analyzed the concurrence of the functions of employees and members of statutory bodies in Czech law and the law of the Federal Republic of Germany, I also took into account the current case law of the European Court of Justice in this matter. By comparing the legal regulations of both countries, I learned that employees in both jurisdictions are a weaker party to the legal relationship, the subject of which is the exercise of dependent work and around which a separate legal sector has been formed. The level of protection in both countries is basically the same, but in my opinion, the German legislation greatly complicates the possibility for employees to become acquainted with the written law due to its non-codification. The legal regulation of the members of statutory bodies is divided into separate laws in German law, when the executive director is comprehensively regulated in the Act on Limited Liability Company and a member of the Board of Directors again in the Stock Corporation Act - the case law is also developing independently. Unlike a German member of the board of directors of a Stock Company or Czech statutory bodies, a managing director of German limited liability company is subordinate to the instructions of the general meeting and, like members of statutory bodies under Czech law, can be revoked at any time without stating a reason, therefore his position is strengthened by case law, e.g. it is possible to deviate from the statutory liability regime in his favor. When comparing the concurrence of functions in the legal systems in question, I came to the conclusion that the concurrence is not allowed in any of the legal systems for similar, but not for identical reasons, and that this prohibition
of concurrence of functions in the Federal Republic of Germany has historically not had so serious impacts as in the Czech Republic.

On the basis of the comparison, I conclude that the prohibition of the concurrence of functions is the right way to address this issue, that German experience in this area may serve as an appropriate inspiration for further solutions to the problem in the Czech Republic and that it is necessary to closely monitor the development of this issue at European level.