

Employment relations in advocacy and judiciary

Abstract

This thesis focuses on employment relations in the legal profession and the judiciary. The thesis deals with the specifics of these labour relations, which are often not governed by the Labour Code as the basic labour law.

The author's aim in this work is to analyse these employment relationships, in particular to highlight their specifics, which distinguish them from other professions, and to examine the occurrence of the features of dependent work as a basic concept of the Labour Code, even in cases where the legal regulation contained in the Labour Code does not apply to the relationships arising in the exercise of this profession. This thesis refers mainly to the Czech legislation, because international legislation does not deal with the topic of these labour relations, but it also analyses the topic in relation to Czech settled case law. The basic legal regulations governing the subject are the Act on Advocacy, Act on Courts and Judges and the Labour Code.

This thesis is divided into 4 parts, which are further divided into chapters or subchapters. The first part deals with the concept of dependent and independent work, which it first defines, then describes their features and determines how the existence of dependence of a given activity is assessed. This section also describes the concept of the švarcsystem, which is inherently linked to the concept of dependent work. The pieces of information contained in this section are then used by the author in the following sections to examine the occurrence of elements of dependent work in the professions.

The second part is devoted to advocacy, in particular it analyses the specifics of employment relations of law clerks and attorneys, the occurrence of dependent work in these professions, assessment of the institution of permanent cooperation between attorneys as a švarcsystem or negotiation of a competition clause. Furthermore, specific institutes related to the profession are defined, such as the liability of an advocate for damages, disciplinary liability of an advocate, suspension and termination of the practice of advocacy.

The third part is devoted to the judiciary, where the specifics of employment relations of judicial assistants, judicial candidates and judges, the occurrence of dependent work elements in these professions and the similarity of the institutes contained in the Labour Code and the Courts and Judges Act are analysed. Furthermore, the specific institutes related to the profession are defined, such as the liability of a judge for damages, the disciplinary liability of a judge, temporary suspension and termination of the performance of judicial functions. The specifics of the employment relations of the judges of the Constitutional Court and their assistants

and presiding judges, who also decide as judges in court proceedings, but are not judges within the meaning of the Courts and Judges Act, are also analysed.

The fourth part is devoted to a comparison of employment relations in advocacy and the judiciary. This part summarises the knowledge gathered in the previous parts and compares how these differ in advocacy and the judiciary and how the legal regulation for both professions is identical.

Key words: advocacy and justice, dependent work, specifics of labour relations