

Theoretical Issues of Civil Legal Status of the Sportsman in the Legal System of the Czech Republic and the European Union

The reason why I chose this topic for my final thesis is the fact that I am still an active basketball player. During my studies at The Faculty of Law I have started to be more interested in problems of mutual relationship between sport and law.

The main objective of this thesis is in detail to describe and analyze whether, in conformity with valid legal rules, is a professional sportsman in the legal status of the sole trader, in the legal status of the person practising his profession on a free-lance basis or in the legal status of an employee.

In the introduction chapter, an analysis of a concept “sport“ is performed. Sport is therein defined, number of its characteristic features are described including the division into a recreational sport, achievement sport and professional sport. Another part of this chapter is focused on the concept “sportsman“ which brings the definition and differences among amateur, paraprofessional and professional sportsmen. Sport in contemporary conception, especially the professional one, undoubtedly has to be regulated by law. The last part of this chapter deals with the issue how law regulates sport and how the frontier between sporting rules and legal regulations is defined.

The first chapter deals with the legal status of the sportsman in the Czech legislation. The status of a professional sportsman is viewed from the perspective before 1989 through the present. Sportsmen and sportswomen are in our country recognized as self-employed persons responsible for paying their health insurance, pension fund insurance etc. To codify mutual rights and obligations, the parties may conclude the in nominate contract in accordance with Section 51 of the Act No. 40/1964 Coll., Civil Code, as amended. However, in collective sports the players indicate the typical features of dependent relationship of the employer's superiority and his employee's subordination. That is why the players should be contracted as employees and such relationship should be governed by the Act No. 262/2006 Coll., Labour Code, as amended. Unfortunately, this Code is not appropriate for the sports issues. That is why a special act on sport is necessary to adopt.

Remaining parts of the thesis deals with the impact of the European legislation on the sportsman. Currently, the EU has no authority to develop any kind of policy on sport and there is also no legislation in the EU devoted to sport which might cause the problem of legal uncertainty. Therefore, European sports law has been shaped to a great extent by the case-law

of the European Court of Justice (ECJ). Analysis and conclusions of the most important cases are performed.