

ABSTRACT:

The aim of the thesis is to be a comprehensive analysis of the non-competition clause in Czech Labour law. The reason for my research is to examine the non-competition clause, compare and contrast its advantages and disadvantages and to make a conclusion, whether the current legislation meets the requirements of both contracting parties. The thesis is composed of four chapters, each of them dealing with different aspects of non-competition clause, its history and its current problems. Chapter One is introductory and describes the competition in general and in Labour law. The chapter is subdivided into two parts. Part One describes the difference between the competition during the employment relationship and after termination of the employment. Part Two describes the basic terminology and the current state of a non-competition clause. Chapter Two focuses on the history of the non-competition clause in our legislation and illustrates the evolution of such institute. This chapter is subdivided into three parts. Each of them focuses on a specific historical period in the evolution of the non-competition clause. Chapter Three examines non-competition clause in the recent legislative history and comprises of four parts. Part One contains the wording of a non-competition clause in the Labour law legislation preceding most recent novelizations. Part Two focuses on important novelization of the Labour law, which made some significant changes to the institute and tries to explain them. The other two parts concentrate on the current legislature with the emphasis on the new Civil Code and summarize legislation regarding non-competition clause. Chapter Four addresses problems relating to situations of concluding non-competition clauses and possible solutions to such problems. Some conclusions are drawn in this chapter. Chapter is divided into five parts. Part One addresses the problems arising from concluding a non-competition clause. Part Two analyses the scope of activities to which the non-competition clause applies and looks at the limits of such agreement. Part Three deals with negotiated contractual penalty and its purpose and Part Four looks at the possibility of concluding non-competition clause during the trial period of an employee and its pros and cons. Part Five attempts to analyse the problems connected to withdrawal from the non-competition clause. It shows decisions issued by courts in such matter and warns against vague terms, not to be used when concluding non-competition clauses. In the conclusion I suggest some changes or approaches to adopt, when dealing with this institute and I conclude that courts and legislation should devote considerable attention to non-competition clause and problems, arising in connection thereto.