

The status of a sportsman as an entrepreneur

Abstract

This diploma thesis deals with the legal status of professional sportsmen, both in individual and collective sports. The main aim of this diploma thesis is to assess whether a professional sportman can perform his sporting activity as an entrepreneur or whether a professional sportman should be in the position of an employee. The diploma thesis is divided into 4 chapters, which are then divided into subchapters.

The first chapter introduces to the reader the legal regulation of sport in the Czech Republic and points out its insufficiency in the field of sport.

The second chapter analyses the legal status of professional sportsmen. The first subchapter deals with the legal status of sportsmen as entrepreneurs in relation to the effective legal regulation. The emphasis is on assessing whether the performance of a sporting activity fulfils all the characteristics of entrepreneurship as defined by the Civil Code. In this subchapter, I also addressed the question of whether sporting activity can be performed as a trade business. Based on the judgment of the Supreme Administrative Court Case No. 6 Afs 278/2016, I concluded that sporting activity can be performed as a trade business or an independent profession. The second subchapter focuses in more depth on the question whether the performance of a sporting activity by sportsmen in collective sports fulfils the characteristics of dependent work as defined by the Labour Code and whether in collective sports sportsmen should have the status of employees. The third subchapter analyses decisions of the courts which have expressed their views on this issue in their decisions. The fourth subchapter compares the national legislation with the German legislation, which unlike the Czech legislation, is based on the established decisions of the German courts, and therefore the status of professional sportsmen in Germany is clearly defined. Therefore, this subchapter focuses on selected decisions of the German courts, which conclusions provide an answer to the question of the legal status of professional sportsmen in individual and collective sports under German law. These conclusions could serve as an inspiration for possible future changes in the Czech legislation.

The third chapter follows on the second chapter and focuses on the contractual relations between sportsmen and sports clubs and illustrates on the specific example of a professional football player's contract what kind of contracts are actually concluded between sportsmen and sports clubs and what their content is. Further on this chapter deals with the civil liability of sportsmen for sports injuries. In particular, it analyses the case law of the courts in this area and

its development. Furthermore, this chapter answers the question of whether it is decisive in relation to the liability of sportsmen for sports injuries whether they are amateur or professional sportsmen.

The fourth chapter focuses on the legal regulation of sport within the European Union and analyses selected essential decisions of the Court of Justice of the European Union. On the basis of these decisions this chapter also discusses how European Union law sees the legal status of professional sportsmen.

Keywords: Professional sport, legal status of sportsmen, performance of a sporting activity