

WRITTEN BY



MAREK HOLKA  
Partner  
Čechová & Partners



# WHEN ANTITRUST ENTERS THE WORKPLACE

In 2009, fifteen hospitals in the Netherlands signed an agreement titled “Working Together, Training Together”. In the face of a shortage of professionals in certain positions and pressure to raise wages, the hospitals agreed not to rehire anesthetists and surgical assistants who left any of the cooperating institutions to work for a temporary employment agency or establish themselves as self-employed individuals for 12 months.

They also agreed to limit overtime bonuses to 75% of the hourly wage. The court ordered the hospitals to suspend the agreement on grounds that many found surprising at the time: breach of competition law. Since then, similar cases have spread across Europe, including in Slovakia. Labor markets have become a priority sector in competition law all over Europe.

## LABOR MARKETS UNDER SCRUTINY ACROSS EUROPE

Antitrust laws prohibit anti-competitive agreements between companies. The rationale is straightforward: competitive pressure drives down prices and boosts innovation. However, if competitors agree to cooperate instead of competing, consumers suffer from high prices and a lack of real choice. In buyer cartels, competitors agree to fix not the prices of their outputs, but the prices they pay for inputs, the quantities they buy, or the suppliers they use. In this way, they eliminate competition for the best inputs, which is one of the most important drivers of efficiency, quality, and lower costs. By suppressing rivalry in procurement, buyer cartels can degrade product quality, reduce innovation incentives throughout the supply chain, and ultimately lead to higher prices or fewer options for consumers, as the negative effects ripple outwards.

From the perspective of competition law and economics, the labor market is just like any other market, with buyers and sellers. Employers are the buyers, purchasing services, expertise, and skills from employees. Conversely, employees enter the labor market as sellers, offering their services to employers in exchange for wages. Like other markets, the labor market is governed by the law of supply and demand. It is of great importance to society, and malfunctions can negatively affect economic growth and employment. The labor market is generally considered an important part of the economy, and its development and functioning impact overall economic development and living standards. Like any market, the labor market is vulnerable to cartels.

## NO-POACHING AND WAGE-FIXING: A GROWING ENFORCEMENT PRIORITY

Examples include freight forwarders, cosmetics producers, private schools, industrial assembly and maintenance companies in Spain; flooring manufacturers in France; IT services providers in Croatia; employment agencies in Hungary; real estate brokers and basketball clubs in Lithuania; Portuguese football clubs; car manufacturers and medical laboratories in Romania; modeling

agencies in France, Italy and the UK; supermarkets in the Netherlands; elevator companies in Greece; basketball clubs and motorbike racing in Poland; and finally, the fuel industry association in Slovakia. All of these companies have been investigated or sanctioned at some point for no-poaching or wage fixing practices in labor markets.



**Fair competition in the labor market is a key driver of competitiveness. To achieve a high-innovation status, an economy must allow talent to flourish and be evaluated fairly.**

In no-poaching agreements, companies agree not to hire employees of their competitors. This type of agreement makes it practically impossible for an employee to move to another party to the agreement in order to

obtain more favorable working conditions. Employers cannot actively approach employees of other parties to the agreement with job offers, nor can they employ such employees even if they express interest in working for the employer. In a less severe but still harmful version of the agreement, competitors agree not to actively solicit staff from their co-conspirators, but remain free to hire someone who applies for a job. Interestingly, parties to a no-poaching agreement do not have to be actual competitors offering similar products or services, since the market affected by the agreement is the labor market, not the product or service market in which the companies operate. Unsurprisingly, no-poach and non-solicitation agreements lead to lower wages and less favorable working conditions, which may in turn result in lower innovation and poorer product and service quality.

Wage-fixing agreements are another type of anti-competitive practice in labor markets. These agreements may not only concern base salaries, but also put ceilings on bonuses or other employee benefits. Eliminating wage competition decreases employees' motivation not just to seek employment elsewhere, but also to perform well in their current position.

Notably, non-compete clauses in employment

contracts are not affected by antitrust law, since competition law only applies to relations between businesses and not between employers and employees.

In summer 2025, the Slovak competition authority fined the Slovak fuel industry and trade association €10,000 for its code of ethics, which asked member companies not to poach each other's employees. This penalty was relatively low, given both the novelty of the practice in Slovakia and the fact that the sanctioned entity was the industry association rather than its member companies. Nevertheless, the authority demonstrated that it is following current international trends in antitrust enforcement and provided managers with an additional cause for concern.

Fair competition in the labor market is a key driver of competitiveness. To achieve a high-innovation status, an economy must allow talent to flourish and be evaluated fairly. Although antitrust is not an obvious watchdog of fair working conditions, it plays a key role in ensuring compliance with the law across markets. The main lesson to be learned from the recent surge in antitrust enforcement in labor markets across Europe is to avoid gentlemen's agreements with competitors and ensure that staff are prepared for surprise inspections.