

ABSTRACT

Protection of employees in the event of transfer of employer

The master's theses deals with the topic of the transfer of rights and obligations from employment relationships and related institutes of protection of the employees affected by the transfer. The topic is regulated at the European Union tier by Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, which has been transposed into national law as Section XV of Part Thirteen of Act No. 262/2006 Coll., the Labour Code. The thesis introduces both tiers of legislation, the relevant case law of the Court of Justice of the European Union and the Supreme Court of the Czech Republic and evaluates the implementation of the Directive 2001/23/EC into the national system.

The first part of the work is an explanatory one as it describes the meaning of some of the fundamental labour law terms and contexts for the purposes of the following text. The second part introduces the transfer of an undertaking, business or part thereof under the Directive 2001/23/EC and formation of the rules by the Court of Justice of the European Union, in particular the development of the term of economic unit which retains its identity. The third part of the thesis deals with the Czech legal regulation of the transfer of rights and obligations in the Labour Code, with the case law of the Supreme Court of the Czech Republic as well as with their compliance and differences from the regulation of the Directive 2001/23/EC or the conclusions of the Court of Justice. An important part of the third part is a subchapter introducing the amended wording of the provisions of article 338 of the Labour Code. Last but not the least, the fourth part of the thesis presents to readers a body of protective institutes contained in both the Directive 2001/23/EC and the Labour Code, their confrontation, evaluation of the use of the possibilities provided by the Directive in the Czech legal system and related considerations *de lege ferenda*. At the very end of the thesis, the author offers a conclusion with a summary of her view on the big amendment (as it is called) to the Labour Code and several of the most burning legislative and judicial shortcomings of the Czech national implementation.

The issue of the transfer of the exercise of rights and obligations from employment relationships in connection with the transfer of activities between organizational units of the state is not dealt with in this thesis, as the Directive does not apply to this.