

## **Abstrakt**

With regard to the gradual economic globalisation markets of States become more and more interconnected, especially so in the European Union which aims to create a single internal market without internal borders and barriers to the free movement of goods, persons, services and capital. Naturally, it influences behaviour of economic participants on the market. With increase of competition it is necessary to be more innovative, active and to search for new opportunities for expansion not only in one's own State but also abroad which entails entering into relations with foreign entities. In the course of time it might be useful or even necessary to relocate the place of business. Such need might not and, indeed, does not concern only natural person but also legal entities such as companies.

However, the status of companies in cross-border relations has some specific features in comparison to the status of natural persons. A company is only an artificial product of law, a mere legal fiction, and therefore, its existence is much more closely linked with a specific legal order. A company has legal personality only insofar as some legal order acknowledges it.

Different approaches how to link a company to a certain State have been evolved in different States – either the connecting factor is the statutory seat, i. e. the seat stated in the memorandum of association or the statutes of the company, registered in the company register, or it is a place where the central administration of the company is located, i. e. the “real seat”. There are also differing opinions regarding the recognition of a foreign company and also regarding the possibility to transfer its seat from one State to another. Attempts to solve this problem at the international level have been so far not successful. Nevertheless, the area recently became an area of interest to the European legislator and especially to the Court of Justice of the European Union (“ECJ”). ECJ in its case-law (such as decisions *Daily Mail*, *Centros*, *Überseering*, *Inspire Art*, *SEVIC Systems*, *Cartesio* or *VALE*) repeatedly confirmed that not only natural persons but also companies can take advantage of the freedom of establishment guaranteed by Articles 49 and 54 of the Treaty on the Functioning of the European Union. Member States when creating or interpreting their laws with regard to cross-border company mobility must take into account such freedom. So far the secondary Union law deals with cross-border company mobility in a rather limited way in specific cases.

This dissertation thesis will analyse different approaches how to determine the applicable law for a company in different States (Germany, France, Netherlands, United

Kingdom), including how these States deal with foreign companies and how they approach the cross-border company mobility, in particular the transfer of the seat of a company. Further, the case-law of the ECJ will be examined with a view to abstract some general principals and analyse how these principles may influence the national laws. Different European Union legislative initiatives dealing with company mobility which are already in force will be examined and compared with existing proposals in this area to deduce their potential benefit. Finally, the current Czech legislation will be analysed in the light of the European law and case-law and approaches of other States and compared with the new Czech legislation coming into force. Predominantly, methods of abstraction, analysis and comparison will be used.

Other areas which are closely connected with the company mobility – such as tax treatment of companies in cross-border relations and insolvency procedures in international context will not be examined because of their specificity.