

## **Transfer of rights and obligations from employment relationships**

### **Abstract**

This thesis examines the legal area of the transfer of rights and obligations arising from employment relationships, which has, in some aspects, been significantly amended with effect from 30 July 2020. The main objective of the thesis is to provide an analysis of the legislation on the transfer of rights and obligations from employment relationships in force until the end of July 2020, including the identification of any shortcomings of this legislation. Subsequently, the thesis assesses whether the adopted amendment (Act No. 285/2020 Coll., amending Act No. 262/2006 Coll., the Labour Code, as amended, and certain other related acts) deals with these problematic areas appropriately and sufficiently. In this analysis, particular emphasis is placed on achieving the asserted purpose of the legal regulation and balancing the interests of the concerned parties.

After a historical outline and definition of the purpose of the legislation, the thesis concentrates on the identification of the transfer of rights and obligations arising from employment relationships in the national legislation of the Czech Republic, specifically the legal grounds of the transfer under Section 338 Subsections 2 and 3 of the Labour Code before and after the aforementioned amendment to this Act. In this context, greater attention is also paid to the issue of the transfer of rights and obligations arising from employment relationships in the case of outsourcing, insourcing and change of supplier, as this is the area previously most frequently criticised in relation to this legal ground of transfer. To provide better context in view of the declared objective of the amendment of this legislation, which is to bring it closer to the European legislation (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), the thesis offers perspective of European law and its comparison with Czech law. The second part of the thesis concludes with an evaluation of the application of the law and potential *de lege ferenda* proposals.

The third part of the thesis studies other instruments of protection of transferred employees in more detail, namely the information and negotiation obligations of employers, protection against dismissal, the upholding of working conditions and their changes, the possible conclusion of new employment contracts, the binding nature of collective agreements and the possibility of termination of the employment

relationship by the employee in connection with the transfer of rights and obligations. Before the conclusion, the thesis assesses the real level of employee protection in terms of the other means of protection examined and further *de lege ferenda* proposals.

**Key words:** transfer of rights and obligations arising from employment relationships, legal grounds for transfer of rights and obligations, transfer of employer's activity, instruments for protection of employees