

# **POSTING OF WORKERS IN THE FRAMEWORK OF PROVISION OF SERVICES**

## **RESUMÉ**

This thesis deals with posting of workers in the framework of provision of services. As I had considered this subject-matter to be topical and very useful for every undertaking in the European Community I decided to analyze current legal background of this area both at the European level and at the Czech level. The aim of this paper is to provide with an overview on the current situation, reveal the lacks of the legislation, evaluate the effectivity of the regulation, make suggestions of improvement and illustrate a possible development in this area in the future. A sufficient part of my thesis is focused on the comparison of the Czech and Belgian legislation concerning posted workers and their work conditions.

The paper is divided into six chapters. The first chapter makes an introduction into the topic of posting workers. Chapter two explains the basic principles of free movement of services within the European Community of which the posting of workers is an integral part. The basis of the thesis is then the third chapter which is directed on the European directive concerning posting of workers itself. This chapter defines the basic terminology of the directive, introduces the scope of its application, minimum work conditions, position of the third countries nationals etc. The information coming from the directive is complemented by suitable judgements of the European Court of Justice which represent certain guidelines for the member states and service providers regarding the application of the directive. The chapter four aims to introduce the Czech implementation of the directive and also special kinds of posting of employees known by the Czech Labour Code. Since the employment relationship is established by an employment contract, it is fundamental to outline matters connected to it as every other ordinary contract such as choice of the law, judicial authority or belonging to the legislation. The gist of the thesis is comparison of the Belgian and Czech legislation concerning posting of workers and their work conditions. I daresay that this was the priority of the paper, to present the legal regulation of both states, compare them and also inform on the sources where one can get more detailed information. My paper is intended to offer a good starting point for the service provider who would consider posting of his workers into Belgium or the Czech Republic.

I appreciate the contribution of the regulation of the directive to the free movement of services, even if there are some lacks and imperfections. After careful studying of this topic I am afraid that the Czech regulation failed to implement all aspects of the directive. In my opinion the European regulation is not perfect either. Very important is the judicial activity of the European Court of Justice which substantially helps to apply the legal regulation. It is better, though, to have imperfect regulation than no regulation. I hope that the day will come very soon when the member states totally stop applying various measures and restrictions which they do in spite of Commission communications and judgements of the European Court of Justice currently so that the free movement of services would work without any discrimination and other restrictions. Moreover we shall anxiously expect an amendment of the directive on posting workers and an amendment of the Czech Labour Code as well.