

Obsah

The Rome Convention on the law applicable to contractual obligations well known also as “Rome Convention (1980)” or just “Rome I.” came into force on April 4th, 1991. On the field of Private international law in the EU member states, the Rome Convention plays the most significant role regarding contractual obligations. The Purpose of the Convention was to establish and uniform the same rules for every participating country. It contains rules mainly connected with party autonomy and right to choose governing law for their particular contract and rules concerned with solving problems, when parties have not agreed on the choice of law clause in their contract (art. 4). This article has become crucial and also the most criticized throughout the whole Convention. It tries to put together two different principles:

- a) civil law is represented by a characteristic performance approach, in which courts of the given countries apply periodically and without many exceptions to find out the country to which the contract is most closely connected (art. 4/5),
- b) courts of the common law countries, on the other hand, prefer the rule of the proper law of a contract using wording of art. 4/1 and 4/5.

The above mentioned issues and also the new possibility to harmonize private international law on the Community level, which was opened after the Amsterdam Treaty came into to force, can be considered as the key moment that triggered the process of transformation of the matters covered by Rome Convention to a new legal instrument, namely EC regulation. In 2005, the European Commission put forward a proposal for an EP and Council Regulation on the law applicable to contractual obligations [Com (2005) 650 final.] with the intention to modernize and also amend provisions of the Rome Convention. The final version published in the Official Journal of the EU in 2008 (Regulation No. 593/2008) had been preceded by many discussions and a long legislative process. As a result of, I would say the best efforts of European institutions we are now standing before a partly amended and innovated legal tool. As regard to changes, I must point out and underline different constructions of art. 4 and the addition of particular rules concerning contracts for the carriage of passengers (art. 5/2) and Insurance contracts (art. 7).

The aim of the thesis is to explain the main principles and rules contained in the Rome Convention and to compare them in light of the new provisions of the Rome I. regulation. Nevertheless, only future application of the new provisions on contracts by

national courts and superior interpretation power of the European Court of Justice, can show us the real impact of the new Rome I. regulation on the contracting parties, acting mainly within the common European market.

Klíčová slova diplomové práce / Key words of the master thesis

- a) Římská úmluva / *Rome Convention*,
- b) rozhodné právo / *applicable law*,
- c) smluvní závazky / *contractual obligations*.