

## **ABSTRACT**

Subject of this thesis are contemporaneous possibilities for companies to transfer their seat outside the state of incorporation. Recently, there has been a dramatic development in private law as well as in national company laws, mainly because of the judgements of the Court of Justice of the European Union. Corporate mobility comprises the possibility to transfer a company from one state to another. Crucial issue is the transfer of the seat of the company in connection with the freedom of establishment.

The Court had already given rulings on the transfer of company's seat in several judgments; however, this thesis concerns particularly the latest judgment – Cartesio. In this case the Court dealt with the question whether the freedom of establishment governed by the European law shall be interpreted broad enough to include the right of companies to transfer their real seat (their head office) or their legal and real seats (their registered seat and head office) from one member state of the EU to another. The key question is, whether the Cartesio judgment contributed to the corporate mobility and if so, the scope of such contribution.

For better understanding of corporate mobility, the first part explains particular terms used and hidden implications. First part therefore describes the conflict of laws theories, namely the incorporation and the real seat theory and further it considers the outbound and inbound situations in connection with respect to the particular theories.

This thesis further deals with corporate mobility in the European Union context and its development with regards to the judgments of the Court of Justice of the European Union. First, the distinction between primary establishment, the incorporation of a company, and secondary establishment, the setting up of a branch of an existing company is described. This part continues with the examination of important case law regarding the corporate mobility and is concluded with detailed examination of the latest judgement Cartesio, in particular with regard to the preceding decision-making procedure of the Court of Justice of the European Union.

Next part is dedicated to the alternatives companies can use when trying to transfer their seat to another Member State of the European Union (European forms of companies or cross-

border mergers), including those institutes that have not been enacted yet (European Private Company, Fourteenth Directive).

Last part focuses on connecting factors as regulated in Czech law and the impact of the European law on this matter. First, connecting factors regulated in the Commercial Code are elaborated including the assessment of the development of the legal regulation in recent years. This part continues with brief description of the European impact on Czech law and is concluded with in depth elaboration of the conception of the seat in Czech law, its recent change and possibility to transfer the seat from or to the Czech Republic *de lege ferenda*.

In addition to that the conclusion summarizes my own conclusions to the transfer of the seat of the company and outlines the actual possibilities of the corporate mobility, including the assessment of the impact of the judgement *Cartesio*.