

Abstract: Right of establishment in International Private Law

Private companies act in the international context more intensively than any time before. There are many ways how to act on the international market. One solution is to establish a branch or a representation office instead of establishing a brand new company. The right to act in the international context using branch companies and transfer of seat is known as the freedom of establishment.

The thesis covers main issues concerning the freedom of establishment and also discusses the case law issued by the Court of Justice of the European Union.

The comparative view of the seat and incorporation principles is used in the thesis. With a greater detail to the Czech law, the issue of the foreign companies' recognition is discussed. The Czech law recognizes foreign companies even in the form in which it is no longer possible to establish new company in the Czech Republic. In this regard basic elements of the bare trust are discussed.

The case law of the the Court of Justice of the European Communities opened Europe's corporate space and allowed the competition between the national jurisdictions to begin. Author compares situation arised on the European market with the situation in the US. As an evidence of the distinction between different US states' regulations, the comparative research of the Delaware and New York corporation laws is provided.

On the ground of American scholars' researches, the idea of the race to the top is strongly presented. The thesis supports liberalization of the corporate markets, the freedom of establishment and movement of the private companies.

In regards to the international corporate forms european companies are discussed. Most of the space was granted to the European joint-stock company. Significant improvement of the right of establishment and movement of the capital came with UCITS directives. Although UCITS IV is not implemented in the Czech law yet, it is described in the thesis.