Rome Convention and Rome I Regulation on the law applicable to contractual obligations

The purpose of my thesis is to analyse some main aspects of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (the Regulation) especially with regard to the Rome Convention on the law applicable to contractual obligations from 1980 (the Convention) and to provide an overview of changes compared to the Convention. The Convention was published in the Collection of the International Treaties as notification No 64/2006 Sb. m. s. and it applies to contracts concluded after 1 July 2006. The Regulation oblige the courts of all EU Member States except Denmark to determine the applicable law for contracts with an international element entered into on or after 17 December 2009 according to the Regulation’s provisions. Where neither the Convention nor the Regulation applies, the Czech courts will generally look to the relevant national law, Act No 97/1963 Sb. on Private International and Procedural Law as amended. From 1 January 2014 would be applied its superseder Act No 91/2012 Sb. on Private International Law.

The thesis is composed of ten chapters, each of them dealing with different aspects of choice of law rules applicable to contractual obligation. Chapter One is introduction which has been here already mentioned.

Chapter Two defines basic terminology used in the thesis like the international element and provide basic theoretical information about context of choice of law rules as well as European private international law.

Chapter Three deals with genesis of the Convention as well as of the Regulation. The chapter is subdivided into two parts each looks at the genesis of these instruments separately.

Chapter Four provide an analytical overview of scope of application. The chapter is divided into the six subsections. First two subsections deal with force of action of the Convention and of the Regulation. Next two subsections contain detailed analyses of matters that fall into and out of scope of the Convention and of the Regulation. Last subsections deal with territorial scope.

Chapter Five attempts to present relations amongst variety of instruments contain choice of law rules on contractual obligations as well as the relation between the Convention and the Regulation itself.
Chapter Six concentrates on freedom of choice, as the essential part of party autonomy. Subchapters concern the characterisation of arrangement about choice of law, possible ways how parties may realize choice, matter of splitting the *lex causae*, object of choice and limitations of party autonomy with special regard to single-country contracts.

Chapter Seven contains rules which determine the applicable law in absence of choice and compares the approach of both analysed instruments to the principle of closest connection.

Chapter Eight deals with the scope of the law applicable.

Chapter Nine characterises various aspects of new definition of overriding mandatory provisions and presents usage of these provisions, which can be part of *lex fori, lex causae* or part of law of third country. Then it compares overriding mandatory provisions with public policy.

Conclusion is drawn in Chapter Ten and briefly summarises obtained conclusions and offers the view to possible future development.