

## **ABSTRACT**

The recent nature of the topic "Business, its sale and rent" clearly shows the social need that character of the enterprise as an object of business relationships and contracts for the sale of the business and the lease of the business is actively used. The company represents an important element which belongs to the business environment, and with the company as an object of legal relations may the businessman dispose - for example, a company can sell or hire. For the existence of the company and contract types associated with the enterprise is critical for a legal anchoring of these institutes. Enactment of these institutes is now primarily based on the Commercial Code, but in the ongoing recodification process of civil and commercial law will be the primary legislation under the New Civil Code, although it will modify the present time and the absolute business obligations. The law of contracts, which include a contract for sale of the business and the contract for the lease of the business will be "moved" by the rules of the New Civil Code.

Company at a stage where is not a subject of the influence of contracts for the sale of the business, or the lease of the business, can be analyzed in terms of its "static" phase. The main subject of research in this phase of the business as such, is business as an object of the relations and as a matter of collective. It is not possible to forget the existence of organizational units of the company. Conversely, if the business is disposed under contracts for the sale of the business, or the lease of the business, can be analyzed in terms of its "dynamic" phase. The main subject of research in this phase is the business as an object of legal relations in relation to legislation on mandatory and dispositive legal level of a contract of sale of the business or its part and a contract of lease of the business or its part.

For the research of this institute (business) is important to incorporate its existence into now effective legal system, but also in the context of its historical development. Historical and legal terminology concept is shown in a new light, if we take into account the ongoing recodification processes related to historical terminology. Many of knowledge that mankind has created, and for the area of law that may apply even more, fell into oblivion, and after certain time are "rediscovered." Therefore to reach a comprehensive assessment of legal issues of the company and its research is

necessary to integrate knowledge acquired in the context of its historical concepts. This can serve as an appropriate inspiration, because the development of law may not always be progressive. While the key is to find a balance between stability and predictability of legal rights, including legal amendments and the potential recodification processes.

The business is an important legal institute in the Czech legislation, but also in the world's legal systems. World legal systems, especially German and Anglo-American rather than put the main focus on legal issues relating to the company, but the legal issues surrounding the sale of the business. Company's sales process in foreign jurisdictions "in the hands of" private entities without the high impact of mandatory rules, which is allowed by a considerable degree of directory local laws. The condition for ensuring of equality of parties, is an advanced legal culture in the country and ensuring of professional practice in the negotiation and implementation of a sales contract.

A business, contract for the sale of the business and the contract for the lease of business is a major issue from the perspective of a global legal concept and is not limited by the territoriality of law. The business is the world's legal systems in European Union law is often perceived differently than in the law of the Czech Republic. That does not mean however any conflict because the law may not be perceived only as an objective knowledge, but also as a means of knowledge.

From my perspective a business often represents a means to generate a profit in its "static phase" and the contract for the sale of the business and the contract for the lease of the business's transformation into a "dynamic phase" of the business. The existence of these legal institutions is not motivated by their legal conception, but by the economic subtext related to the issue of a business to generate a profit. If the business is able to generate long term profits, it often leads to a decision of the businessman to hire a business enterprise, and thus take advantage of a contract of the lease of the business or entrepreneur decides to sell the business and therefore will use a contract for the sale of the business. The contract for the lease of the business and the contract of the sale of the business cannot be seen separately from the business because especially in developed legal systems is not the issue of business and its sales separated. Even in the legal literature is the legal sale of a business perspective described in the context of its economic importance. The trend therefore is to connect knowledge from different

disciplines together with knowledge of the law in order to achieve maximum efficiency in the implementation of selling business in practice.

Analysis of selected foreign legislation has shown that there is a convergence and mutual interaction between continental and Anglo-American legal culture. In most cases is assumed the concept of Anglo-American concept of a sales contract to the law of continental Europe. This fact is also enabled by a high degree of directory, for example German legal concept and a long tradition of advanced legal culture. These legal cultures are, regardless of the specific treatment of individual national legislation, more and more "modified and replaced by" the contractual legal cultures.

These contractual legal cultures exist due to the large directory (dispositive) laws in the German legal culture concerning private law. In consideration of this dispositivity may occur to the pumping of sources of inspiration mainly from Anglo-American legal culture, which affects the law trends also in continental Europe. On the other hand there is a noticeable influence of public law, under which the Federal Ministry of Economics and Technology in Germany by presumption of the acquisition of the business with its registered office in Germany, or a direct or indirect participation in the relevant business by a person coming from a country outside the European Union, to check, whether this acquisition doesn't threatened public order or security of the Federal Republic of Germany. The research of foreign regulation constitutes one of the main pillars for comparison with national legislation and may bring considerable potential inspiration. The possibility of drawing inspiration is made by a continuous tradition of the using of a contract for the sale of the business in Anglo-American legal culture, which led to the use of new legal concepts in the area of governing the sale of the business, such as the concepts of due diligence, closing, legal opinion or disclosure letter. These concepts have been in our law previously unused and unknown.

Into the continental legal practice, which regulates the sale of businesses were these concepts transfer under the influence of American legal practice. It is not necessary to emphasize, how important is to analyze the contract cultures and other related legal institutions, in order to adequately act by the development of contracts and contracting. The contract for the sale of the business and the contract for the lease of the business has a complex character, not only their legal definitions and procedures, but also in the question of their preparatory stages and phases of their implementation.

Preparation for implementation of these agreements requires a relatively sophisticated and elaborate in detail the legal and psychological processes. Legal procedures in developed legal systems in the preparation and implementation of the contracts usually gradually professionalizing. An example may be the importance of investment banks in the creation of a sales contract.

Business, its sale and rent is extremely complex legal issue which deserves maximum attention not only in the context of the Czech legislation, but also in the context of global importance for society.