

## **Abstract (EN)**

The main purpose of this doctoral thesis was to provide an comprehensive analysis of the Preliminary questions under Slovak and Czech national legislations and to provide the same analysis of Preliminary questions under Treaties and Legislation of European Union Law (hereinafter referred to as "Union law"). This analysis shall cover both, Slovak and Czech code of judicial procedure which have the same numerical designation as Act No. 99/1963 Coll. and are known as Code of civil procedure (hereinafter referred to as OSP) in Slovakia and Code of civil procedure (hereinafter referred to as OSŘ) in the Czech Republic as well.

The research in this thesis is structurally divided into 5 independent chapters. Using bellow stated research methods and science procedures; each part focuses on different context of preliminary questions. The first two chapters focus the historical context, concept, importance and scope of the preliminary questions under legislation of Czech and Slovak Republic. This chapter also outlines the normative legal regulations of these issues in the "de lege lata" status. At the same time, the author pays more attention to the eligibility of preliminary questions to be considered as preliminary ones, while the concept of negative questions under Sec. 135 of Slovak Civil procedure code and Czech Civil procedure code is being discussed as well. In this context, the consequences arising from the submission of the preliminary reference to the different of the competent authority on proceedings pending before civil court is being discussed. At the end of the second chapter, author deals with the consequences of submission of the question for decision to another body (e.g. administrative body) to the proceedings pending before the court proceedings and discuss the legal binding aspects of such submission. Within the subparagraphs of this parts of the thesis, the author compare the legal and theoretical context of preliminary questions under Slovak and Czech legislation and also describe the legal de lege lata status of this questions.

The third chapter which is the largest one, deal with the framework, context and scope of the preliminary question under Article 267 of Treaty on the Functioning of the European Union (TFEU). This chapters deals with historical context of the development of "european" preliminary questions in European Union up to the Reform under treaty of Lisbon. This chapter of thesis also explains the basic concepts of union law closely

related to the preliminary ruling procedure questions, describe also legal bases and characteristics of preliminary rulings, the locus standi of the national courts, the nature of the judicial authorities which are authorized to seek a preliminary ruling and obligatory and mandatory jurisdiction of the national courts to seek a preliminary ruling. Likewise, this chapter describes the preliminary ruling proceeding under European Union law, which embodies an element of cooperation between the European Court of Justice and national courts. Different stages of preliminary ruling proceeding under Article 267 TFEU are discussed together with the erga omnes binding nature of decisions given by the European court of justice in preliminary ruling proceeding and the effects of the reference for a preliminary ruling on the national proceedings.

The fourth part is deals with the comparison of scope and purpose of the preliminary questions governed by national legislation of Slovak and Czech Republic and preliminary references according to European Union law. The aim of thesis chapter was to clarify the main differences between preliminary questions in the context of national law and the context of EU law, which became an integral part of the national legislation of both countries following the accession of the Czech and the Slovak Republic in 2004. The differences between those to legal instruments are point out with regard the form of the reference for a preliminary ruling, jurisdiction of judicial authority to give a preliminary ruling and regard to binding force of such preliminary ruling for participants in such proceedings.

The fifth chapter describes application of EU law in the scope of civil procedure legislation of the of the Czech Republic and Slovakia. This part outlines several problems regarding the application of EU law by national courts when referring the preliminary question to the Court of justice, especially from a position of legal counsel, as well as provides the comparison in activities and willingness to refer a preliminary question regarding the validity or interpretation of EU law by the national courts.

This thesis was elaborated using the combination of analytical research methods. Method of analyzing the written documents was used when processing the legal acts, monographs, research articles and papers, relevant case law from national courts of the Czech and Slovak Republic and European Court of Justice as well. Comparative analysis method was used in selected parts of this thesis dealing with the comparison of different

legal systems and legislations. In addition, teleological, historical and semantic methods were applied when clarification of legal concepts was necessary.

Keywords:

Preliminary references, Stay of proceedings, Court bound to obey the decision of another authority, Article 267 TFEU, European Court of Justice, EU law, court or tribunal of a Member State, Preliminary ruling Procedure, ECJ's case law