

Abstract

The thesis focuses on the transfer of rights and obligations arising from employment relations. This legal institute is primarily aimed at the protection of employees during the transfer of undertakings, which can negatively affect their employment relations. The matter is regulated under the Transfers of Undertaking Directive 2001/23/EC. In addition, it is regulated under Czech law, mostly by articles 338-342 of the Czech Labour Code No. 262/2006 Coll.

The thesis involves critical assessment of the EU and Czech regulation of the issue including relevant case law of the Supreme Court of the Czech Republic and the Court of Justice of the European Union (CJEU). Furthermore, it aspires to identify the possible problems arising from the current regulation and aims to find their possible solutions. The most essential questions are; when the transfer of rights and obligations occurs according to legislation currently in force and when it should occur in the case the legislation is to be amended.

The thesis consists of three chapters. The first introductory chapter provides the reader with a necessary theoretical background. The second chapter contemplates the Directive 2001/23/EC and predominantly focuses on the material scope of the Directive in the light of the relevant case law of the CJEU. Finally, the third chapter deals with the regulation of this legal institute in the Czech legal order. Firstly, there are introduced and further analysed multifarious legal reasons, which usually result in the transfer of rights and obligations. However, the focus is placed on the general regulation under the provision 338 of the Czech Labour Code, which seems to be too broad in comparison to the EU regulation. This can lead to many problems. The subsequent subchapters introduce the basic rules of the transfer and further describe and analyse its possible affects on the employees and the employers involved. The conclusion highlights the most burning problems of the current Czech legislation and furthermore suggests their possible solutions.