

# **The legal regulation of the transfer of rights and obligations from employment relationships**

## **A Comparative Study of the European and Czech Legal Approach**

### **ABSTRACT**

The thesis contains a legal analysis of the transfer of rights and obligations from employment relationships. Since it is a comparative study of the European and Czech legal approach, the author compares the legal regulation of the transfer of rights and obligations from employment relationships contained in the Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses ("Directive") with the Czech legal regulation contained in the Czech Labour Code, as well as in other special laws. The analysis of the respective rulings of the European Court of Justice forms a substantial part of the thesis, as these explain and complete the legal regulation contained in the Directive and are also to be observed when applying the transfer of rights and obligations from employment relationships under the Czech law.

The author's references to numerous discrepancies that had arisen in the process of transposition of the Directive into the Czech legal system and which give rise to considerable practical problems when applying the transfer of rights and obligations from employment relationships are also included in this thesis. As the Czech lawmakers opted for a rather loose transposition of the Directive, they created ample room for the application of the transfer of rights and obligations from employment relationships also in instances not originally envisaged by the Directive. Due to this fact the author attempts to confine the Czech legal regulation within the limits set by the Directive and the European Court of Justice's case law, while simultaneously referring to multiple decisions of the Supreme Court of the Czech Republic.

The thesis also contains the author's *de lege ferenda* deliberations on possible or intended changes of the existing Czech legal regulation.

A comparison is being drawn between the most striking differences between the Czech and Slovak legal regulation in order to illustrate the distinct approach the EU member states took when transposing the Directive into their national legal systems.

**Key words:**

*the transfer of rights and obligations from employment relationships*

*transfer of an undertaking*

*economic entity*