

## **Abstract**

This thesis deals with the issues of transfer of rights and obligations arising from employment relations. The main objective of the thesis is to map the CJEU existing judicature and summarize the conclusions arising therefrom.

The thesis is divided into several chapters. After a brief description of some historical development of legal regulations of this issue in the Czech Republic as well as the European Union, the question whether CJEU judicature is binding for courts of EU Member States is dealt with in brief. According to my finding, it is. The substantial part of the thesis is, therefore, focused on conclusions of CJEU judicature related to the interpretation of Council Directive 2001/23/EC. This judicature thus forms a crucial information source for my thesis.

The judicature in question tells us that according to the above directive transfer of rights and obligations is linked to an economic entity which retains its identity. Such an economic entity can have two basic forms depending on the activity carried out, i.e. it can be formed by a group of employees or by tangible and intangible property. Depending on the type of the economic unit, we can assess individual criteria to decide whether such a unit has been transferred or not.

Transfer of rights and obligations can occur only in consequence of contractual transfer or consolidation of a business or a part thereof. The term “contractual transfer”, however, should be interpreted widely according to CJEU, whereas as analysed in more detail further in the thesis, transfer of rights can also occur in situations where no direct contractual relation exists between the entities concerned.

The objective of the above directive is to protect employees, the consequence of which is to maintain the same working conditions of employees before and after the transfer of the business. Automatic transfer of rights and obligations from the original employer to a new one is used here. Exceptions, which the directive admits, should be assessed restrictively so that the main objective is not put at risk.

The thesis also deals with the determination of the circle of employees who are affected by the transfer of rights and obligations. It also analyses rights and obligations related to transfer of rights and obligations arising from employment relations.

Businesses are also transferred in situations where the businesses are in a bad economic situation. The thesis also deals with such transfers as they also include transfer of rights and obligations arising from employment relations. One chapter concerns cross-border transfer of rights and obligations that can occur in practice, whereas another chapter is focused on the possibilities arising from the directive, which have not been used by the Czech Republic, and on considerations *de lege ferenda*.

**Keywords:** economic entity retains its identity, legal transfer, change of an employer