

## **Abstract**

### **Non-contractual obligations with cross-border elements**

Non-contractual obligations form a specific part of the law of obligations. Non-contractual obligations are characterized by the fact that the respective parties enter them involuntarily and without a clear understanding of their legal regulation. In cases where the respective legal relationship contains a cross-border element, this lack of understanding is even deeper.

The subject of this thesis are non-contractual obligations with a cross-border element and their regulation in private international law. The three fundamental questions of private international law are addressed: namely the issue of international jurisdiction, applicable law, and recognition and enforcement of foreign judgements.

The current legal regulation of non-contractual obligations with a cross-border elements is contained in a number of legal resources – from international treaties and EU legislation to autonomous national law. The main objective of this thesis is to analyse these systems of legal regulation in order to determine whether they meet the requirement of legal certainty and foreseeability or whether its unification on international or at least a regional level would be beneficial in that regard.

Apart from the introductory and conclusion parts, the thesis is divided into five chapters.

In the first chapter, the basic concepts are defined. First, the non-contractual obligation itself is defined, through the comparison of the Czech *civilní delikt*, German *Unerlaubte Handlung*, English torts, and the concept of the non-contractual obligations under the EU law. Second, the issue of the cross-border element and its necessity for regulation in private international law is addressed. Finally, the connecting factors relevant for the regulation of the non-contractual obligations are introduced, also with regard to their historical development, with the *lex loci delicti commissi* as the traditional connecting factor, which was gradually replaced by the *lex loci damni infecti*.

Chapters two, three and four are devoted to the respective legal sources, with the emphasis on their material scope, mutual relations and, of course, content. Consequently, the regulation contained in international treaties, EU regulations and national law (Czech and German) is analysed.

The regulation contained in international treaties is examined in the second chapter. First, the conventions adopted at the Hague Conference (Hague convention on the law applicable to traffic accidents and Hague Convention on Choice of Court Agreements) are

presented, followed by international agreements closely related to EU law (Agreement with Denmark and the 2007 Lugano Convention) and bilateral agreements concluded by the Czech Republic.

The third chapter focuses on EU Regulations (Brussels I *bis* Regulation and Rome II Regulation), begins with a short discussion on the EU's competence to adopt measures in the field of private international law. Besides analysing their scope of application and the structure of their regulation, strong focus is given to their autonomous interpretation by the Court of Justice of the European Union.

The fourth chapter is then devoted to the two national regulations of non-contractual obligations with a cross-border element. Namely the regulation contained in the Czech Act on Private International Law (*Zákon o mezinárodním právu soukromém*) and in the German Introductory Act to the Civil Code (*Einführungsgesetz zum Bürgerlichen Gesetzbuche*) and the Code of Civil Procedure (*Zivilprozessordnung*).

The subject of the fifth chapter is the comparison of the application of the foregoing legal sources in regard to a specific example of the non-contractual obligations arising out of violations of privacy and rights relating to personality.

The conclusions of the thesis summarise its main findings and contain the author's recommendation. In particular, the author recommends how the regulation of non-contractual obligations with a cross-border element could be improved with regard to the requirement of legal certainty and foreseeability.

## **Key words**

Non-contractual obligations, cross-border element, private international law