

Resumé

The date of May 1st, 2004 constitutes an historic moment in European Integration. It signifies an enlargement of the European Union from 15 to 25 countries including Czech Republic which had an impact on many areas. In the field of law there were suddenly lots of cases when the European law became immediately applicable. As a result of collision between the European and the national law there may arise a question of interpretation or validity of the EU law. Preliminary reference procedure, which is laid down in Article 267 of the Treaty on the functioning of the European Union, is applied when the judge of a national court faces with such a question; it facilitates the dialog between the national courts and the Court of Justice of the European Union.

The preliminary reference procedure is what is dealt with in the diploma thesis which is called *"The issue of the reference for preliminary ruling with a special regard to proceedings initiated by courts of the Czech Republic."* In first two chapters there is outlined the characteristic of this procedure with some specific features and its evolution from the Article 41 of the Treaty establishing the European Coal and Steel Community to the Article 267 of the Treaty on the functioning of the European Union.

The third chapter interprets the term "court or tribunal of a Member State" according to the Article 267 of the Treaty on the functioning of the European Union. There is analyzed not only the part "court or tribunal," but also the "Member State" part. At the end of this section the thesis deals with the object of the preliminary reference procedure.

Not all the questions which arise in cases before the courts of the Member States will be accepted by the Court of Justice of the European Union or will be refer to it. Next two chapters therefore describe the criteria of acceptance of the preliminary reference and the Exceptions to the Duty to refer by to national courts.

The last chapter studies the Czech preliminary references which were submitted to the Court of Justice of the European Union since the Czech Republic joined the European Union. Up to the end of the year 2009 there were referred questions for a preliminary ruling in twelve proceedings. The first one was made by order of the Okresní soud, Český Krumlov in the proceeding between Jan Vorel and Český Krumlov Hospital. In 2006 there were put three references in the proceedings between Telefónica O2 Czech Republic a. s. and Czech On

Line, a. s., Skoma-Lux s.r.o. and Celní ředitelství Olomouc, OSA and Miloslav Lev. The year 2007 brought two preliminary references in the proceeding *Reisebüro Bühler GmbH v. Dom.info e.K.*, *Sebastian Dieterle and RLRE Tellmer Property s.r.o. v. Finanční ředitelství v Ústí nad Labem*. The last decided Czech preliminary reference was put in the proceeding between *Milan Kyrian and Celní úřad Tábor*. In 2009 five preliminary references were submitted by Czech courts, namely *Česká podnikatelská pojišťovna, a.s., Vienna Insurance Group v. Michal Bilas*, *DAR Duale Abfallwirtschaft und Verwertung Ruhrgebiet GmbH v. Ministerstvo životního prostředí, Skoma-Lux s.r.o. v. Celní ředitelství Olomouc (2)*, *Bezpečnostní softwarová asociace – Svaz softwarové ochrany v. Ministerstvo kultury and Marie Landtová v. Česká správa sociálního zabezpečení*. They have not been decided yet.

All the Czech preliminary references except for the ones submitted in the year 2009 were analyzed from different points of view as for example what kind of “court or tribunal of a Member State” submitted the questions for a preliminary ruling, submitted questions, opinion advocate general or judgment of the Court of Justice of the European Union. Finally there is mentioned a summary of what the Czech preliminary references have or have not in common.