

COMPANIES IN PRIVATE INTERNATIONAL LAW

- ABSTRACT

The aim of this thesis is to familiarize the reader with the regulation of companies in private international law, with special regards to status of the company. The topic is mainly overtaken by the conflict between the incorporation principle and real seat principle. This conflict is reflected in the legal regulation of companies in private international law on both national law level and European law level. It is also connected to the question of competition between legal systems, which the thesis also deals with. Considering the globalizing world we live in and in which the perpetual need to reduce costs plays more and more important role, the topic is highly current.

The thesis is divided into 7 chapters.

The introductory chapter introduces the topic and points out the objectives of the thesis.

The second chapter explains the basic concepts it is going to work with, namely the concept of a company and private international law (conflict of laws).

The following chapter discusses the question of status of the company. It explains the definition of status of the company and afterwards describes the individual theories of determining it, i.e. incorporation theory, real seat theory and a few other rarely used theories.

In the fourth chapter, the author pays attention to the Czech regulation of the company status. Among the areas discussed are historical background, the regulation of the incorporation principle in Czech law, the concept of seat in Czech law and the possibilities of cross-border moving of the company seat. The mentioned topics also include a section on the soon-to-be-in-force recodification of the Czech civil law.

The fifth chapter examines the law of the European Union. It is divided into sub-chapters on the general discussion of the freedom of establishment, followed by judicial decisions of the Court of Justice of the European Union, next sub-chapter describes the directives that aim to improve the freedom of establishment, and the final sub-chapter considers the supranational forms of companies.

The sixth chapter analyzes the competition between legal systems. The thesis discusses its origins in the USA, its effects in the EU, the following sub-chapter then examines its reflections in the English law and in the final sub-chapter also in the regulation of commercial corporations in the Czech Republic.

The last chapter summarizes the whole topic.