

## **Abstract**

The first chapter of my thesis defines the key terms necessary for understanding the concept of mobility of companies in the private international law. The fundamental difference between *lex societatis* and the nationality of company are terms which are not identical, despite their frequent confusion. It is the *lex societatis* which is defining for the inner organisation of the company. According to the reasoning of the Court of European Union, in the cross border transfer of the statutory seat should inevitably lead to change of *lex societatis*. However, in order to decide on which legal order is applicable for defining the *lex societatis* of a company, we have to look into the international private rules of a particular country. There are two major theories from which stem the legal orders of all member countries, the real seat theory and incorporation theory. This chapter explores their pros and cons, as well as practical consequences of their application on the possibility of cross-border transfer of a seat of a company.

The second chapter of my thesis outlines relevant European Union law which lies behind the concept of cross border mobility of companies. The Treaty provisions on freedom of establishment are reviewed in the light of the Court case law. The most relevant decisions of the Court are being analysed and put into perspective according to the line of reasoning the Court holds, i.e. whether the inbound or outbound movement of a company is in question. Finally, I briefly listed the possibilities for transfer of a company seat provided by the Secondary Union legislation, namely the regulation about SE, the prepared regulation for SPE, and the still open discussion about the possible adoption of 14<sup>th</sup> directive. Finally, I put forward some questions which remain to be unresolved by the Court.

In contrast to the European Union law, my third chapter focuses on the general framework of Czech law. Taking into consideration the recent fundamental changes in the Czech private law, I briefly described how the precedent Commercial code handled the question of a transfer of the seat. As for the law after recodification on this issue, the relevant provisions of the new law on the international private law are examined as well as the New civil code, which also contains general provisions with regard to transfer of the seat. Finally, the Transformation Act of 2011 has substantially reformed the definitions of Czech and foreign legal person as well as of the notion of “transformation” itself, which I emphasized in my work.

The final chapters of my thesis aim at the analysis of the relevant provisions of the Transformation Act related to cross-border transfer of a seat into and out of Czech Republic. The outline in these two chapters follows the same pattern, as put forward in the law itself. The subchapters deal with the change of applicable law, subsidiary use of the provisions on the change of legal form, legal prohibition of transfer of seat under certain prescribed circumstances, the issuance of the certificate by Notary and their registration into the Registrar of the Companies.