

Transfer of Undertakings

Abstract

This thesis elaborates on the transfer of undertakings safeguarding employees, rooted in the European legislation in the Council Directive 77/187/EEC of 19 February 1977, replaced by the Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses. Firstly, the European legislation on the transfer of undertakings is briefly analyzed, including its historical transposition into the Czech legal system and an analysis of its interpretation in the case-law of the Court of Justice of the European Union. The analysis of this legislation focuses in particular on the general nature of this institute of transfer of undertakings and on its basic pillars, such as the automaticity of the transfer, the economic unit preserving its identity, the preservation of working conditions and others.

The next part of the thesis analyses the Czech regulation anchored in Act No. 262/2006 Coll., the Labour Code, as amended until 29 July 2020, which is gradually compared with the regulation at the European level, highlighting the fundamental differences caused by the somewhat loose transposition of the European regulation and the late amendment, which could have easily eliminated a significant part of the problems. It also discusses the problems that the regulation brings or has brought with it. The differences between the various amendments, and therefore the different concepts of the institutes of transfer of undertakings, are summarized in the conclusion of this thesis. This is followed by a description of the amendments to the regulation of the transfer of undertakings by Act No. 285/2020 Coll., amending Act No. 262/2006 Coll., the Labour Code, as amended, and some other related acts. This amendment substantially affects the regulation of the transfer of undertakings, which has not been amended for more than 8.5 years, and is intended in particular to respond to the case-law of the CJEU.

Keywords:

labour law, transfer of undertakings, protection of employees, European law and case-law