

Autonomous will in conflict of laws in international private law

Abstrakt

This thesis deals with the traditional private law principle of autonomy of will in conflict of laws in private international law. Its expression is the choice of the applicable law, which is one of the connecting factors. This institute has been known since the Middle Ages, but due to the legislative activity of the European Union, it has recently appeared in areas where it has not previously been. The choice of the applicable law allows participants to choose the law that best suits their needs.

The objectives of this work are to map the development of the choice of law and the reasons which led to it. Another objective is to explore the various existing restrictions on the choice of law and to consider their necessity.

In the first half of my work I deal with the principle of autonomy of will and the choice of the applicable law in general. I examine both the history of this institute and its advantages, as well as its possible division and limitations. I also mention the debate on the necessity of the presence of an international element in the legal relationship. In the second half of the thesis I examine the concrete form of choice of applicable law in both contractual and non-contractual obligations, inheritance and family law. While in the contractual obligations the choice of the law has been traditionally present, it was only in the area of non-contractual obligations and inheritance law that the European Union presented the choice of the applicable law to most Member States. What is specific is the situation in the area of family law where because of the strong cultural traditions of the various Member States is difficult to reach a consensus, so in all Member States we can only choose the applicable law in the matters of alimony.

Within each section, I first focus on EU adaptation. In the European Union, the choice of applicable law is regulated by the regulation, which is advantageous because of their direct applicability and uniformity of treatment. In addition, I review the Czech and international conventions in each section.

Klíčová slova: autonomous will, choice of law, Rome I