

Reservation of public policy in private international law

Abstract

This thesis aims to explore the issue of public policy reservation (*ordre public*) in private international law. The thesis analyses various aspects of public policy reservation and its application in the context of private international law, with an emphasis on the Czech legal environment. The thesis consists of five chapters, in the first chapter the concept of public policy in private international law is theoretically defined and its possible classification is presented. A separate subchapter focuses on the concept of public policy in European law and the case law of the European Court of Human Rights. Furthermore, the thesis analyses the formal sources of law establishing the public policy reservation at the international, European and national level, as well as the conditions of application of the public policy reservation in Czech law. The principle of restrictive interpretation is analysed in more detail and the relativity doctrine is also analysed. Furthermore, the thesis deals with two modalities of the use of the public policy exception: as a ground for refusal to apply a rule of foreign applicable law and as a ground for refusal to recognise and enforce a foreign judgment in the Czech Republic. The last chapter examines the scope for the use of the public policy reservation in international family and succession law and presents the related case law of European courts.

As a result of the thesis, it is found that public policy reservation (*ordre public*) remains an essential part of private international law, although the public policy of European states is gradually acquiring a harmonised content as a result of European integration and international protection of human rights. There remain fields, particularly in family, status, and inheritance law, where the values of the legal orders differ significantly and, therefore, in exceptional cases, the application of foreign legal rules or enforcement of foreign decisions must be rejected. This thesis contributes to a deeper understanding of the public policy reservation (*ordre public*) and its application in private international law.

Key words: public policy, *ordre public*, public policy exception, European international private law