

# Obligations Involving an International Element with Focus on Assignment of Receivables

## Abstract

In its **first part**, the diploma thesis focuses on the **legal regulation of obligations** with an international element. It is not uncommon nowadays for an obligation to have a certain relation to a foreign country, such as the habitual residence of its subjects, their different nationality, or the place of performance of the obligation. The regulation of such relationships is governed by rules of private international law, which are essentially of three origins – EU, international and national.

The thesis thus initially covers the basic terminology with regard to obligations. It defines the term obligation, describes the difference between contractual and non-contractual obligations, explains the concept of international element and elaborates on the methods of regulation of relationships containing such international element.

It then analyses the current legal regulation of contractual obligations contained in law of the European Union represented by the Rome I Regulation, in the multilateral treaties providing uniform rules of substantive law, as well as in bilateral treaties on legal assistance. However, attention is also paid to the residual regulation in the domestic source of private international law – the ZMPS.

**The second part** of the thesis addresses a much narrower, yet to obligations related topic, that is **cross-border assignment of receivables**. A receivable, which represents the creditor's right to receive performance from the debtor, may be subject to transfer, even to a foreign entity, which is accordingly reflected by the rules of private international law.

Besides defining the basic concepts such as receivable, assignment, financial operations based on assignment (factoring, forfaiting, or securitization), as well as clarifying the issue of the effects of assignment of receivables to third parties, the focus of this passage is mainly on the analysis of the legal regulation of assignment of receivables with an international element. It is represented, inter alia, by Article 14 of the Rome I Regulation, which governs the law applicable to the relationship between the assignor and the assignee as well as between the assignor and the debtor.

However, what the Rome I Regulation does not deal with is the issue of the law applicable to the third-party effects of the assignment of receivables. Such an effect can be understood as, for instance, the question of which of several assignors has priority in the event

of multiple assignments of the same receivable. Attention is thus also directed towards the Commission's 2018 proposal for a regulation which should address these and similar issues, but the future of which is currently uncertain. Its chosen connecting factor of the assignor's habitual residence is only one of the conceivable options, which, despite its advantages, has significant disadvantages, which are likewise pointed out.

Lastly, the thesis focuses on the international law regulation of assignment of receivables, contained in the UN Convention on the Assignment of Receivables in International Trade and the UNIDROIT Convention on International Factoring, which, however, is of limited importance.

**Key words: Obligations, Assignment of Receivables, International Element**