

Free-lance professions under the law of the EU

The free-lance professions under the law of the EU serve for the topic of the present thesis. They represent a special category of occupations playing though a significant role in the daily life of the society and in the economic events of both the state and the European Union. They distinguish from other forms of businesses by the “liberty” of carrying out, i.e. the independence on the direct state supervision.

It is impossible to find among EU member states neither the identical term of a free-lance profession, nor the categories of the professions considered to be included. The term might regard advocates, architects, but also journalists, writers, artists etc. Neither do the EU member states agree on the content of individual activities, or usually performed duties. As some of these occupations are significantly linked to the public interest, the member states tend to increase their regulations. The first part of the thesis deals with differences of conceptions in individual member states, as well as with their common basis. The aim of the EU is to overcome the discrepancy of national regulations and to unify the conception. The common basis served as an inspiration for the definition of the free-lance professions on the European level. The EU law adjusts it just insomuch so that they are able to violate the functioning of the common market, focusing generally on regulated professions.

The aim of this study is to analyze the questions dealing with the activity of members of the free-lance professions on the internal market of the European Union, more specifically the free movement of persons (the workers according to the article 45 TFEU, the self-employed persons in the case of the right of establishment according to the article 49 TFEU and the free movement of services according to the article 56 TFEU). Apart from the general questions of the internal market (its definition, development and other issues concerning the claiming of the basic rights), the following chapters analyze the particularities of the free movement of persons and of services in comparison to the free-lance professions. The main focus is put mainly on the conditions for the performance of the particular profession with its possible forms, on

the personal extent, on the acknowledgement of the qualifications for its accessibility and especially on the question of limiting regulations of member states, their admissibility and on individual reasons justifying their existence. The occupations from the public service or professions associated with the execution of the public authority, the health protection and the public security are considered to be the most important.

Finally, the thesis emphasizes the role of the free-lance professions in the formation of the general principals of the internal market law, executed by the practice of the European Court of Justice. The judicature highly influenced the content of the following norms of the secondary law. In the recent years, there has been intensified the secondary rule-making in the domain of regulated professions. The reason is to simplify and to clarify the modification in conformity with the objectives of the Lisbon strategy. Even though various directives have been accepted, many questions are still subject to negotiation. Their legal regulation, to a greater or lesser extent, remains therefore an open question.