

The primary objective of the proposed project is to show the relationship that exist between the protection of different categories of social rights and the implementation of the internal market freedoms with the so-called social element. It will determine the level of protection of these rights in the area indicated above. The above-mentioned social element can be understood as a situation in which the freedoms of the internal market are being used by an individual under an employment relationship, ie. the person implementing his/her social rights. So we can talk here generally about two of four freedoms, that are regulated in Article 26 paragraph. 2 TFEU, that is the free movement of persons and freedom to provide services. According to free movement of persons we distinguish the free movement of workers and freedom of establishment, where relationships between an employee and employer are ever present. As it goes to the freedom to provide services, these relationships generally take place in the case of the posting of workers in the framework of the provision of services to another Member State. Relations between the employee and employer (contractor / service provider) do not always have a positive dimension, ie. they can lead to conflicts of interest, and thus the collision of rights. The proposed project will thus try to indicate which of the social rights do not exert any influence on the implementation of the above-mentioned freedoms, which have a positive effect (strengthening their implementation), and which impacts negatively (by going to these freedoms in a collision). The proposed research aim is also to systematize and propose effective solutions to conflict situations in the relationship between the protection of social rights and the implementation of the aforementioned freedoms.

To achieve the abovementioned objective the following research analysis the doctrine of EU law and international law that allows for the definition of a catalog of basic social rights and their scope of protection under EU. The study will also include analysis of the existing primary and secondary EU legislation on the protection of individual social rights and the freedom of establishment and freedom to provide services. The term relationships that can occur between the protection of social rights and the achievement of the above-mentioned freedoms will take place mainly on the basis of analysis of relevant TS EU and ECHR case law, but also EU regulations on the protection of social rights in their clash with the rights of entrepreneurs and service providers in the internal market. This analysis will be conducted in terms of demonstrating such impact, and the lack of influence of individual social rights on the exercise of freedom of establishment and free movement of services. In the former case it will further aim to broken down into positive and negative impact. Because such an impact is certainly evident in relation to the right to work, a special analysis will be undertaken that will concern EU law and international law, together with the relevant case law in order to evaluate the impact of various elements of this law on the exercise of freedom of establishment and freedom to provide services in the EU internal market (ie. the prohibition of forced labor, prohibition of discrimination in employment and equal remuneration for work, the right to decent working conditions and the right to organize and the right to strike). Significant importance will be devoted to the concept of social dumping in EU law and the functioning of the so-called letter-box companies, and as a result of existance of these phenomena, problems with the effective implementation of EU regulations concerning the posting of workers in the framework of the provision of services.

The main reason for interest of proposed research topic is the lack of clear EU regulations on how to resolve potential conflicts between the protection of social rights, and the implementation of freedom of establishment and freedom to provide services. Treating the protection of social rights as a legitimate restriction on those freedoms undermine their equivalent legal status with the freedoms of the internal market, which they have obtained on the basis of the binding Charter of Fundamental Rights as a result of the entry into force of the Lisbon Treaty and is not compatible with international standards of social rights protection. The lack of coherence of EU law with international regulations in this area not only threatens the EU incurring international liability, but also causes lack of legal certainty and prevents the effective implementation of the freedom of establishment and freedom to provide services. The result of the maintenance of such an approach may be the reluctance of EU citizens to economic integration in this area, due to the feeling of a low level of social rights protection. It is worth to be mentioned here that one of the objectives of the EU is to ensure "social market economy" and, therefore, apart from purely economic issues, it is also important here to provide an adequate level of protection of fundamental rights, including in particular social rights.