

# **Deposit of Securities and Book-Entry Securities Held through Intermediaries**

## **Abstract**

The subject of this work is the analysis the deposit (i. e. safe custody) of securities in several Central European legal systems performed in a dogmatic, historical and comparative context.

Firstly, the particular types of deposit contracts are introduced. These are a regular (individual), aggregate, mingled and irregular deposit. These types of contracts are discussed in more detail, especially in terms of the rights and obligations of the parties. It is determined who is the owner of the things deposited, the degree of responsibility of each party, the extent of the obligation to restore the deposited thing, etc. Although the types of contracts are analysed primarily in terms of deposit of securities, these are general types of deposit contracts that can be applied much more widely. Therefore overlaps with other legal institutes, such as a storage contract, are also indicated.

Then follows an analysis of the historical development of the regulation of deposit of securities from the 19th century to the present, with emphasis on the Central European context, especially the law applicable on the territory of today's Czech Republic. This analysis states that until the beginning of the communist regime, regulations in question developed in the same way as in other capitalist states, but this development was subsequently forcibly interrupted by the advent of communism. The new conditions of the 1990s not only enabled a return to the proven scheme of security deposit, but also forced the dematerialisation of securities which could be considered to have taken place relatively early given the Central European context.

The chapter on European law follows, which analyses in particular certain provisions of the Central Securities Depositories Regulation.

The most comprehensive chapter is the analysis of the Czech law, where the concepts of a security and a book-entry security are precisely defined, followed by an analysis of the evidence scheme of these objects and finally the part devoted to types of deposit contracts. The author comes to the conclusion that the mingled deposit is the single most widespread type of deposit contract of securities and book-entry securities in the context of Czech law.

The following part contains analyses of individual foreign legal systems. The first of these is the Swiss law, which underwent major changes in 2010, including the dematerialisation of securities, and which, according to the author, is well developed and modern. German and

Austrian law on the other hand still await more extensive changes, including dematerialization of securities. Some changes which have been suggested are also described in this thesis. In all cases, however, the mingled deposit plays the major role with regular and irregular deposit also having place in these legal systems.

Finally, some considerations *de lege ferenda* and the conclusion of the thesis follow.