

Legal regulation of natural persons in the General Civil Code and in the current Civil Code

Abstract

This dissertation thesis compares the legal regulation of natural persons in the Civil Code of Austria (ABGB) which was enacted in 1811 and the Czech Civil Code from 2012, especially the regulation of the so-called passive status of a person in the legal sense (i.e. legal personality). The authors of the new Civil Code designate as the ideological source of the recodification the draft of the Czechoslovak Civil Code from 1937, which was de facto modern revision of the ABGB, so it is important to take into account the relevant ABGB provisions when interpreting the new Civil Code. It is also important to take into account historical origins of these provisions, while also examining how their interpretation has evolved over time. Austrian legal scientists benefit from the stability of their code when applying private law and can also rely on more than two centuries of doctrinal development and extensive case law. The Czech legal community does not have this advantage, therefore the importance of historical and comparative interpretation of legal norms is increased when they apply specific provisions of the Civil Code. It is therefore necessary to perceive this dissertation thesis as a contribution to the discussion taking place in the legal community, the aim of which is to get to know the real meaning of particular provisions and institutes of the Civil Code.

In order to be able to deal with the legal regulation of natural persons in both codes, it is important to look at the historical development of the term “person” in the legal sense and its relationship to the term “man” as such. Although this dissertation thesis is focused on the legal regulation of natural persons (i.e. from the positive law point of view), it is essential to examine the historical or legal-philosophical basis of this regulation. For this reason, a substantial part of the dissertation thesis is devoted to this topic.

This dissertation thesis also deals with the issue of protection of personality. Particular provisions of the Czech Civil Code and the Civil Code of Austria are again compared.

Keywords: person in the legal sense, natural person, historical development of the term person, protection of personality