

Inheritance contract in Comparative Perspective

Abstract

The thesis deals with the concept of the inheritance contract in the legal regulation of the Civil Code (Act No. 89/2012 Coll., Civil Code) and foreign legal regulations in the German language area, in particular of Austria. The work is based on the premise that the Austrian Civil Code (*Allgemeines bürgerliches Gesetzbuch*) has been a source of inspiration for some of the provisions that regulate the inheritance contract in the Czech legal system, with a particular focus on the regulation of the limitation of property that can be acquired by an inheritance contract (the so-called free quarter) and other issues related to this provision.

Across the work, problematic provisions of the conception of the inheritance contract, which are difficult to interpret based on the text of the law alone, are highlighted. Suggestions de lege ferenda are given, as well as possible interpretative starting points in comparable foreign legislation, especially the Austrian Civil Code. The author assesses in which cases it is possible to take inspiration from foreign legislation and in which cases this is not possible, either because of a different conception of the institution of the inheritance contract or because of different related legislation.

The thesis is divided into a general part and a comparative part. The first part introduces the general characteristics of the inheritance contract in the Czech and Austrian legal systems, and then a brief historical overview, focusing on the inspirational sources of the Austrian Civil Code. The comparative part specifically focuses on the limitations of the so-called free quarter, to avoid the superficiality and descriptiveness of the work. An analysis is made of the academic and commentary literature in relation to the limitation of the so-called free quarter, in particular the method of calculation of this free quarter, its relation to the obligatory share of the non-minor heir and the question of the possible conversion of the inheritance contract into a will. Specific examples of its calculation are given, considering the three main approaches that appear in legal doctrine. Furthermore, the work deals with the consequences of exceeding the limitation of the so-called free quarter, and special attention is paid to the possibility of converting such an inheritance contract into a will under a special provision of the Civil Code.

Keywords: inheritance contract, comparison, ABGB