

Abstract

Settlement of matrimonial property in the probate proceedings

The purpose of this final thesis entitled "Settlement of matrimonial property in the probate proceedings " is to describe and analyse the rules governing the settlement of the community of property in the probate proceedings and to describe the current legal regulation, including a confrontation of some opinions in the doctrine. The first chapter contains the definition of the concept of community property, the second chapter is about historical development from the General Civil Code to the present day, where both the possibilities of matrimonial property arrangement and the subsequent settlement of this community are described. The third chapter describes the procedural procedure in the probate proceedings for the settlement of the matrimonial property and also describes the protection of the surviving spouse. The fourth chapter describes the different ways of settlement of matrimonial property in the probate proceedings, i.e. the agreement of the surviving spouse and the heirs or a court decision, and also deals with the situation of dissolved but unsettled community property. The brief fifth chapter deals with the situation of registered partners. The final chapter is about comparison with the French legislation, first describing the variants of possible property arrangements between spouses and then the procedure of its settlement in the succession proceedings. There are pointed out the differences, some of which, e.g. the application of general rules for the settlement of matrimonial property in estate proceedings, could certainly be an inspiration for the Czech legislator.

In some places, it is pointed out that the general rules for community property and the probate proceedings are not coherent, which in practice creates certain problems. For example, reflecting the entries from the community property into the exclusive property of one spouse in the probate proceedings, whereas the settlement of the entries from the exclusive property of one spouse into the community property must be claimed by the surviving spouse in contentious civil proceedings.

Keywords

Matrimonial property, probate proceedings, autonomy of the will