

10. SUMMARY

In this diploma thesis I have focused on the topic of the Commercial Register and other topics related to the Commercial Register.

The Commercial Register is possible to describe as a public register in which certain data about certain persons is recorded in the accordance with the Czech law. The Commercial Register is regulated mainly in the Commercial Code and in the Civil Procedure Code.

The main function of the Commercial register is to provide some basic facts about every person (entrepreneur) recorded into the Commercial Register. Another important function is to protect every third person acting in good faith regarding the facts entered in the Commercial Register.

Every person can inspect the register and ask for a printout for every recorded person. This principle written above is so-called principle of formal publicity of the Commercial Register. All the records in the Commercial Register are legally effective on everyone from the day of their performance by the Register Court (so-called positive aspect of the principle of material publicity). In the case a third person acts in confidence of the entry in the Commercial Register, a recorded person can not rely on the fact that the entry does not corresponds with the real fact (so-called negative aspect of the principle of material publicity). In other words, the negative aspect of the principle of material publicity means that confidence of a third person is protected.

Under the Commercial Code certain persons have a duty to be entered into the Commercial Register: companies, cooperatives, entrepreneurs as natural persons or foreign business entities. These persons have a legal obligation to enter certain data into the Commercial Register. This data can vary depending on the legal form of the person recorded into the Commercial register but there are some data common for all the persons such as trade name, registered office, identification number, legal form or scope of business.

It is possible to distinguish two kinds of entries into the Commercial Register. The first one is so-called constitutive entry and the second one is so-called declaratory entry. Every origin or change entered by a constitutive entry is valid since the entry is made (for example incorporation of the company). In the case of a declaratory entry, validity of the data entered into the register does not depend on the time when the entry was made (for example a change of the seat of the company).

An integral part of the Commercial Register is the Collection of Documents. Into the Collections of Documents, documents such as founding documents, annual reports or specimen signature of persons participating in statutory body are recorded. The Collections of documents is open to public similarly as in the case of the Commercial Register.

The impact of a mass development of electronic facilities in every sphere of social life has also influence on the Commercial register and the Collection of Documents. The Commercial register is kept in electronic form and is freely accessible at the website <http://www.justice.cz>. The Collection of Documents is also kept in electronic form at <http://www.justice.cz> but not all the documents were digitalized till now because of high data volume of recorded documents.

The main role in the register proceedings play so called Register Courts. Register Courts are regional courts and the Municipal Court in Prague. In accordance with the Commercial Code there are two groups of persons which can make an entry into the Commercial Register. The first one consists of persons recorded in the Register; these persons have an obligation to submit a proposal concerning the entry to the Register Court within 15 days period from the day this obligation came into existence. If this period expires and no proposal is submitted to the court than every third person who attests a legal interest will be entitled to submit a proposal to the court. If the recorded person does not agree with the decision made by the Register Court it is possible to lodge an appeal with the court.

In my opinion the main task regarding the Commercial Register and the topics connected with the Commercial Register is an insufficient check of obligations that are set up for entities entered into the Commercial Register.

For instance, a person recorded in the Commercial Register has an obligation to record the annual report into the Collection of Documents by December 31 of the year following the year the annual report is connected with. Actual situation is that approximately one half of these persons do not fulfil the obligation. A possible solution I see in an implementation of new control mechanism based on the activity of private subjects separated from the register courts.