

The Plurality of Persons Regarding Ownership - General Issues

Resumé

The aim of this diploma thesis is to analyze some of the issues concerning the plurality of persons regarding ownership which have been brought by the Act of the Czech Republic No. 89/2012 Sb. Civil Code ('the Civil Code 2012'), which has come into effect on 1 January 2014.

The thesis is divided into five chapters.

The first chapter is devoted to the sources which were the main inspiration for the authors of the Civil Code 2012. The main sources were the Civil Code of Austria (Allgemeines Bürgerliches Gesetzbuch) and the bill of Civil Code proposed by the Czechoslovak government in 1937. The chapter emphasizes the fact that it is necessary to take these sources into consideration when analyzing legal regulation contained in the Civil Code 2012. The truth of this statement is proved throughout the whole text of the thesis since many references concerning these sources are made.

The following chapter describes two legal forms of co-ownership that exist in the Czech legal system: common ownership and co-ownership in which shares of co-owners do not exist (e.g. community property). The chapter shows similarities and differences between these forms.

The third and the fourth chapter are the core of this diploma thesis.

The third chapter answers the question whether the starting point for the legal regulation of co-ownership in the Civil Code 2012 is the concept of common ownership or the concept of co-ownership in which shares of co-owners do not exist. The chapter explores both possibilities and it concludes that the starting point is the concept of co-ownership in which shares of co-owners do not exist. This means that common ownership is a special kind of co-ownership in which shares of co-owners do not exist.

The fourth chapter is about a share of a co-owner in common ownership. The chapter shows that there are different opinions what a share of a co-owner can be and it tries to find out what opinions are relevant and which of them not. The chapter four also covers the fact that a co-owner is limited in his legal right to dispose of his share in common ownership.

The final chapter (chapter five) concentrates on the legal regulation of co-ownership in the Netherlands. The chapter describes its certain aspects and also compares it to the legal regulation of co-ownership in the Civil Code 2012.

The conclusion is the final part of the thesis and it sums up the main points made in the thesis.