

Abstract

Contractual acquisition of ownership of movable things: comparison of Czech and German legal regulation

The aim of this thesis is to introduce and compare three main approaches towards acquisition of ownership of movable things, which are currently present on the European continent. For this purpose, three different civil codes are outlined, whereas each of them represents one possible approach.

The question, which of these systems works the best, has already been thoroughly discussed at the European level. However, the Czech civil code of 2012 has decided not to follow the conclusion of these discussions and opted for a different approach. Since the Czech lawmaker does not provide a duly reasoned explanation as to why he has decided to adopt a different rule, this thesis aims to take a closer look at the reasons, which might have played a decisive role.

The topic of this thesis is divided into the four parts.

Chapter one is introductory and its purpose is especially to set out the essential terminology such as thing, ownership or acquisition thereof.

Chapter two outlines the respective approaches towards acquisition of ownership of movable things. This chapter stepwise presents German Civil code, Czech Civil code of 1964 and Czech Civil code of 2012.

Chapter three deals with the idea of harmonisation of private law at the European level. First and foremost, this chapter outlines the relevant parts of the Draft Common Frame of Reference that are dealing with acquisition of ownership. Besides that, the first critical remarks on the single approaches are being made.

The particular advantages and disadvantages of each system are finally summarized in chapter four. Apart from that, this chapter also deals with the reasoning

of explanatory report on the Czech Civil code of 2012 and scrutinizes the reasons, which might have lead the Czech lawmaker to opt for a system, on the basis of which the transfer of ownership is effected at the moment of the consensus between the parties.