

Abstract

The topic of my diploma thesis is “Law regulating property of spouses”. The diploma thesis concerning marital property law is focused mainly on community property. This institute comes into power as a result of entering into a marriage.

The aim of the diploma thesis is to describe ways how to secure separate property of spouses in a marriage. The thesis consists of seven chapters, the first chapter is an introduction to this topic and the seventh chapter is a conclusion.

The second chapter of my thesis is devoted mainly to the historical development of the community property since 1811 to the current legislation often called as the “new” Civil Code (no. 89/2012) and the comparison of Czech and Austrian legislation.

The diploma thesis describes in its third chapter which property consists of community property and which property is excluded from community property.

The fourth chapter is focused on a division of community property in case of dissolution of a marriage. Community property can be divided equally between spouses (a husband and a wife) or differently. Spouses can agree on the division of property or it could be decided by court ruling. If either of the spouses does not ask for court decision, the division of community property is achieved by legal presumption (the rules set in the Civil Code for the division of property used after certain amount of time).

The fifth chapter describes possible modifications of the community property different from Civil Code. The Civil Code describes three possible modifications: a restriction or an enlargement of the scope of the community property by an agreement, separate property instead of community property or postponing the establishment of the community property until the termination of a marriage.

Spouses can choose from one of these modifications of community property or combine them together. The agreement altering provisions of community property between spouses can be made before entering into a marriage (called prenuptial agreement) or after (called postnuptial agreement). I highly recommended entering into a prenuptial agreement modifying community property.

I concluded that the most efficient for spouses is to have separate property in order to eliminate possible future conflicts in case of dissolution of their marriage.