

Abstract (Mistake in civil law)

The submitted diploma thesis deals with the problematic of mistake in civil law as a form of vitiated consent. Pivotal provisions are present in § 583-585 of the act No. 89/2012 Coll., civil law. In the introduction of the thesis we can find general issues of legal action, with more detailed description of will, its characteristics, manifestation of the will and their relation to each other, as these essentials of legal actions are instrumental for the purpose of this thesis. Next chapter focuses on the main issue, mistake as it defines it in two separate ways, that is discrepancy between the genuine will of the acting person and manifestation of the will, secondly as a defect of the will. Main focus of the thesis lies within the latter case, discrepancy between genuine will of the acting person is only mentioned briefly. Afterwards the thesis focuses on different types of mistake as corresponding to the provisions in the act No. 89/2012 Coll., civil law. Special focus is put on the term decisive circumstance, necessity of participation of other party and excusable mistake, as well as extract about the mistake induced by deception. Following chapter is centred around subsidiary circumstance and how to distinguish it from a decisive one. Afterwards the thesis mentions other types of mistake, as they require a special provision of their own. These include mainly the mistake in the will of testator and two cases of mistake in marriage law – mistake in the identity of the fiancé and mistake in the nature of the marriage. Last chapter deals with the consequences of mistake, mainly whether the legal action is null and void, or its only relatively invalid, where the author strongly agrees with most theorists in that mistake in legal action should only cause relative invalidity, not nullity.

Key words: legal action, will, mistake, mistake in the will of testator