

**Dorota Ryčlová**

**A gift - transformations over time**

**Abstract**

This thesis is focused on a gift as an object of gift-giving and its purpose is to analyse this institute as completely as possible. Both from historical point of view, as well as from the perspective of actual legislation. Not even the perception of a gift by other sciences like psychology, anthropology, economy or diplomacy will be left aside.

One of the introductory chapters is concerned with gift transforming in law from the Code of Hammurabi, over the Roman law and the Middle Ages up to the regulation of the Austro-Hungarian Empire, the First Czechoslovak Republic and both civil codes valid and effective in our territory in the second half of the twentieth century.

Naturally, the largest extent is devoted to the conception of a gift in current legislation, especially in the Act No. 89/2012 coll. civil code (hereinafter referred to as the New Civil Code - „NCC“). Not only from the point of view of NCC Stat. §§ 2055–2078, which deals with different forms of the gift itself (and gift-giving and contract of donation respectively), but also from the point of view of other NCC provisions explicitly mentioning gift or gratuitously provided performances. For the needs of distinguishing between a gift *stricto sensu* and any other similar performances, the term *gift according to NCC Stat. § 2055 etc.* has been introduced in the thesis.

The thesis is not limited only to the problematics of *a gift according to NCC Stat. § 2055 etc.* and performances similar to it within NCC, but it also pays attention to these institutes for example in the Act on Insolvency and Its Resolution, on Transplantation, on Civil Service, on Presidential Election, in the Labor Code and other valid and effective acts.

For the distinction from any kind of different performances it is essential to answer the following question in the first place – under given circumstances, can we or can we not talk about gift-giving? If the particular performance can not be qualified as a gift-giving, it is naturally not possible to consider the object of such performance to be *a gift according to NCC Stat. § 2055 etc.* Therefore the thesis often ponders the presence or absence of *gratuitousness, voluntariness* and *animus donandus* – characteristic features of gift-giving.

In order to recognize *a gift according to NCC Stat. § 2055 etc.* the submitted thesis is relatively in detail concerned with the definition of *a thing*, because only *a thing* is qualified for becoming an object of gift-giving. Moreover the thesis also aims at the term *performance made out of generosity or good will* as a performance frequently mistaken (especially by non-professional public) for *a gift according to NCC Stat. § 2055 etc.*

## **Keywords**

Gift, gift-giving, performance made out of generosity or good will.