Selected Issues of Condominium

Abstract

This work deals with selected issues related to the condominium in the civil code (the act No. 89/2012 Coll.) and related legislation, especially with those whose interpretation is controversial. Initially the thesis analyzes the question whether the civil code has brought any changes to conception of the institute of the condominium, mainly with respect to its subject which in Czech legal environment traditionally consists of an apartment on one side and of common areas on the other. Subsequently the thesis analyzes a new conception of the unit as the essential term of the institute of the condominium, and this conception is compared with the previous regulation contained in the Flat Ownership Act. The next part of the thesis is devoted to common areas which are specified in two legal acts since 2014, namely in the Civil code and in the Government order No. 366/2013 Coll., on the regulation of certain issues related to the condominium. Except for the mere specification of common areas, this part of the work analyzes the question whether the enactment of common areas contained in Government order is mandatory or non-mandatory. The next part of the thesis is focused on some issues in the legislation of the owner of the building declaration which the Civil code newly governs, namely on validity of the owner of the building declaration, on the procedures for removing defects in the owner of the building declaration, and for its change. The question of the debt transfer, whose legislation is perceived controversially by professionals, is not omitted either in the thesis. The last part of the work is devoted to the large topic of administration of the building and land with respect to the changes the new Civil code has brought. Special attention is paid to the changes concerning the institute of administration of the building and land without the establishment the unit owners association; the work closely deals not only with actual functioning of this regime of administration of the building, but also with issues of establishment and termination of the office of an administrator which are interpreted by professionals differently. In this part of the work some new competencies of the unit owners association are researched more in detail, for example representation of the unit owners in applying their rights, and the question of the participation of the unit owners association in proceedings according to the Building Act is dealt with as well. The part of the thesis is also a discursuon to the regulation of the condominium in France which was one of the sources of inspiration for the present Czech Civil code.