

# **Pre-Emptive Right in the Civil Code**

## **Abstract**

This thesis deals with the institute of pre-emptive right both in theoretical terms and in valid legislation. The main objective of this work is to describe the institute of pre-emptive right in such a way that it is possible to draw attention to the issues which arise in connection with this institute and to outline possible solutions where appropriate. However, in order to describe the practical aspects of the pre-emptive right, it is also necessary to describe the pre-emptive right in theoretical level. Following the objectives set, the work is divided into five chapters.

The first chapter of the thesis deals with the theory of pre-emptive right where space is left to some theoretical constructions, with the theory defining five possible constructions in particular. The work also describes possible motives leading to the negotiation of the pre-emptive right, which can be divided into motives of the defence and motives leading to the acquisition. Furthermore, the elements of the pre-emptive right and its division are described. The second chapter serves as the theoretical basis for the next chapters.

The second chapter deals with the origin of the concerned institute and its historical development in civil codes, and part of this chapter discusses other pre-emptive rights not only in private sphere.

The third chapter concerns the current legislation of the pre-emptive right in Act 89/2012 Coll., the civil code, and four years after the law came into effect legislator has significantly modified the legal pre-emptive right of co-owners, what must be aimed at and what the author of this thesis does. For better clarity, the pre-emptive rights which are discussed in the third chapter are divided according to the reason of their origin, i.e. to legal pre-emptive rights and contract ones.

The fourth chapter is focused on the current issues which raise in practice and are related to the pre-emptive right institute. This includes – for example – a legislative change in the concept of legal pre-emptive right of co-owners, problems related to pre-emptive rights in houses with flats and/or the exercise of the pre-emptive right in gratuitous transfers.