

Legal regulation of natural persons in the Civil Code of Austria and in the current Civil Code of the Czech Republic

Abstract

This dissertation thesis brings a comprehensive historical perspective on the development of the concept of a person in the legal sense in the territory of the Czech lands. A great part of the thesis deals with the philosophical definition of this term and examines the natural legal bases of this issue. Emphasis is placed on the comparison of the legal regulation of natural persons in the Civil Code of Austria (ABGB) which was enacted in 1811 and the Czech Civil Code from 2012. The authors of the new Civil Code designate as the ideological source of the recodification the draft of the Czechoslovak Civil Code from 1937, which was de facto modern revision of the ABGB, so it is important to take into account the relevant ABGB provisions when interpreting the new Civil Code. It is also important to take into account the historical origins of these provisions, while also examining how their interpretation has evolved over time.

In this dissertation thesis there is also quite a large space devoted to the issue of personality protection. Some of the most important provisions of the new Czech Civil Code and the Civil Code of Austria are again compared. Great attention is paid to the individual means of personality protection, incl. the most effective institute, which is liability for damage. The subject of comparison is also the current Czech and Austrian case law on compensation of damage caused by a bodily injury and compensation of harm caused to other natural rights. For some readers it may be surprising that the amount of compensation in the event of bodily injury in the Czech Republic is several times higher than in Austria. A similar situation exists in the case of compensation of harm caused to other natural rights. In these cases the Czech legal system provides a high standard of protection comparable to Western European countries. The Austrian approach is rather restrictive.

Keywords: natural person, protection of personality, liability for damage