

Lease of Flat – comparison of Czech and German Laws

Abstract

This Master's thesis deals with the legislation governing lease of a flat under the laws of the Czech Republic and of the Federal Republic of Germany. The authors of the Czech Civil Code (Act No. 89/2012 Coll., the Civil Code) drew inspiration from the German Civil Code ("*Bürgerliches Gesetzbuch*" of 18 August 1896, as amended on 2 January 2002) and its influence can be traced in many provisions of its Czech counterpart. The lease of a flat is a burning issue in both jurisdictions, sensitive to political changes in the country, with a strong social subtext, and great emphasis is placed on the protection of the tenant as the weaker party. Unlike the Czech legislation, the German laws on lease of a flat are more robust, more detailed, and social policy is palpable throughout the German Civil Code; this, however, attracts criticism from its opponents at times.

Since the laws on lease of a flat are abundant and the thesis is written from the viewpoint of two jurisdictions, the thesis does not provide a comprehensive overview of the topic, but rather focuses on one component, specifically the rent and other payments. The rent and other payments constitute a very dynamic as well as controversial area of the German laws governing the lease of a flat; it has proved to be one of the areas where protection of the tenant as the weaker party is of utmost importance in both jurisdictions. Due to the soaring rents in the Czech Republic, especially in Prague, as well as in Germany's major cities, the issue has drawn considerable attention of both the public and political parties as well as the Government. The thesis emphasises the oftentimes striking differences and specific features of the laws of the two jurisdictions; it analyses and compares the statutory provisions on rent and other payments in the two jurisdictions, and strives to answer the question of whether the German Civil Code might also be of inspiration for amendments to the Czech laws in the future. The thesis focuses primarily on the current issue of rent under both the Czech and German laws, as well as on issues that are causing discord among the legal professionals.

The thesis is divided into four parts. Part 1 introduces the issue of lease of a flat itself and attempts to outline the characteristics of a flat and residential premises as defined in the laws of the respective jurisdictions. The three parts that follow are the mainstay of the work, focusing on rent and other payments as well as on rent regulation and increase.