

Modification of community property and third parties rights protection

Abstract

Community property is one of the fundamental elements of matrimonial law. Currently, the issue of protecting the rights of third parties in connection with the modification of the joint property of spouses, is still growing. That is why I have chosen the issue of modification of the community property and third parties rights protection as a topic of my thesis.

The aim of this thesis is to thoroughly analyze and explain the institute of modification of community property, especially with regard to the protection of the rights of third parties. This thesis is divided into eleven chapters.

Chapter One defines a concept of joint property by determining its content and listing the ways in which the joint property can be adjusted – legal regime, contractual regime and regime based on court decision.

In the following Second chapter, I focus on historical development of the matrimonial property law. The Third chapter refers to the current Czech legislation of joint property of spouses, which is incorporated in the civil code. The mentioned chapter is divided into several subchapters and mainly describes assets and liabilities, which belong to the community property by law.

The Fourth chapter deals with the modification of the joint property of spouses by an agreement. In this chapter I analyze the essential elements of a contract, types of contractual regimes, limits set for the contracts and The list of documents about matrimonial property regime.

The Fifth chapter examines the regulation of the administration of the community property and specify all possible types of administration – legal regime of administration, the contractual regime of administration and the regime of administration based on court decision, all with regard to third parties and their rights.

For a comprehensive picture of the whole issue, in chapter Six I briefly describe the regime of community property established by a court decision. Particularly I focus on the limits of the court decision and the conditions under which the court decides.

In the subsequent chapter, I focus on the modification of joint property and the rights of third parties, in particular I examine in detail the protection provided to creditors by law,

and describe in which situations is it possible to use this protection. The general regulation of the rights of third parties succeeds in chapter Eight, which deals with the joint property and execution. This chapter analyzes in detail, in which cases the creditor can be satisfied with the property, which belongs to the community property, what are the limits of satisfaction and how can a spouse of a debtor defend himself in the execution proceedings.

The Ninth chapter describes the impact of insolvency proceedings on the joint property, in particular it concentrates on restriction of modification, settlement or impossibility of creation of community property in the event of bankruptcy.

The last two chapters deal with the comparison of the joint property of spouses in France and Germany.