

## **Abstract in English, key words**

**Title:** Good Faith in private obligations

### **Abstract:**

In this thesis, the importance of the “good faith” in Czech private law and its role after recodification of Czech private law is being studied. The thesis is divided into three key parts.

In the first two parts part, we deal with good faith as an open texture, consider the question whether it is a legal principle or not and in the third part, we study the relationship of good faith to selected institutes of Czech private law.

The Civil Code significantly reinforces the role of open textures in order to allow for flexibility in an application of a legal norm, and good faith plays an important role in this context. Furthermore, we deal with two aspects of good faith, in the objective and subjective sense. Whilst many academicians see good faith in an objective sense as a standard of conduct in the framework of which everyone must exercise their rights and duties, good faith in its subjective sense is understood by some of the academicians as a state of mind that is endowed with legal protection. In this thesis, we present our view in the sense that we consider good faith as a combination of the two approaches outlined above. We draw this conclusion on the argument that in order to assess whether a person is in good faith or not, it is in any case necessary to find a certain standard of care, or an appropriate level of conduct, which can, in a legally qualified manner, excuse certain ignorance or contradiction with reality.

Furthermore, we compare good faith with legal terms of “honesty”, “good manners” or “error”. A significant part of this thesis is devoted to the study of “protection of acting in good faith” as a principle of private law, to a significant degree arising from Dworkin's theoretical concept of principles and rules. We consider the answer to this question, whether “protection of acting in good faith” is a legal principle or not, to be of key importance in understanding of its application across the Czech private law. In this context, we also analyse the attitude of the two supreme judicial institutions to this question and their contradictory interpretation of the relevant legal norms which count on good faith, since this question is closely linked to the answer on whether “protection of acting in good faith” is a principle or not. In this thesis, we conclude that it is a general legal principle of Czech private law.

In the practical part of this thesis, we deal with good faith as a rule, which is contained in a number of the Civil Code provisions and we examine its influence within such a specific provision.

In conclusion, we make a synthesis of good faith as a principle and rule only to make a final assessment of the role of this term within the Civil Code, concluding, among others, that good faith is a rule in those situations in which the legislature wishes to protect good faith acting as a matter of priority, since the protection of good faith is of such an essential value to it that it takes precedence over other principles that protect other values in question.

**Key words:** good faith, private law, recodification