

# **Conditions, determinations of time and other secondary clauses in last wills**

## **Abstract**

This thesis deals with the issue of secondary clauses in wills, their nature, function and differences between them. The main objective of the dissertation is to comprehensively analyse the legal regulation of secondary clauses in the context of Czech legislation, to identify problematic aspects of this regulation, and to propose possible solutions to interpretational issues.

The dissertation focuses on the general definition of secondary clauses, and their types (in particular conditions, determinations of time, and testamentary burden), reflecting both domestic and foreign sources, especially the case law and literature of Austrian provenance. The thesis also highlights specific cases and examples of interpretation and application of the legal regulation of secondary will clauses (cases from Czech and foreign court decision-making practice, examples from the professional literature, and finally the author's own examples).

The first part of the thesis contains a definition of key terms and a basic characterisation of individual secondary clauses and related institutes, including a distinction between individual secondary clauses. This first part also provides a basic definition of the institution of trust succession and the concepts associated with it. The second part of the thesis describes the historical development of the legislation. Furthermore, faulty secondary clauses and their consequences are examined. In this context, attention is paid in particular to the differences between impossible, impermissible and incomprehensible clauses, their legal consequences and the possibilities of their interpretation and qualification. The third part of the thesis is devoted to the issues concerning the fulfilment and non-fulfilment of secondary clauses and their consequences. A significant passage in this part is devoted to the due date and enforceability of testamentary burdens. This is followed by the last part before the conclusion, in which the author deals with the clauses of appointment of the executor of the will and/or administrator of the estate, and in particular with the content and formalities of such clauses.

In many places in this dissertation, the importance of the interpretation of the testator's will as a basic guideline for the resolution of disputed situations (even situations that may not appear disputed at first sight) is emphasised. The thesis concludes that secondary will clauses

are of irreplaceable importance if we want to enable the realization of the autonomy of the testator's will. The proper realisation of this will depends not only on the wording of the legislation, but also on its careful interpretation. The author is based on the idea of a flexible finding of law that seeks to respect the testator's autonomy without unduly undermining other important values.