

# **Incapacity to inherit**

## **Abstract**

This thesis is dedicated to the concept of incapacity to inherit, an institute of inheritance law that prevents a potential heir from acquiring an inheritance from the decedent due to their actions. The main aim of the thesis is to provide a comprehensive analysis of the legal regulation of incapacity to inherit in the Czech legal system. The work focuses primarily on the controversial aspects of incapacity to inherit and proposes solutions to problematic issues related to it.

The first part of the thesis addresses the definition of incapacity to inherit by defining the most important concepts and briefly presenting the historical development of this institute, which has its roots in Roman law. This section also presents a possible classification of incapacity to inherit and then delves into absolute incapacity to inherit, which is linked to the issue of determining the moment of conception in the case of artificial insemination. Furthermore, the thesis focuses on distinguishing incapacity to inherit from disinheritance, as well as on the relationship and connection between these two institutes. Last but not least, the first part of the thesis examines the issue from a procedural perspective with a detailed discussion of the question of civil courts' obligation to follow criminal courts' conclusions in matters of incapacity to inherit.

The second part of the thesis is devoted to relative incapacity to inherit, analyzing its individual grounds in more detail. This is followed by the third and final part of the thesis, which deals with what actions can be classified as acts of the nature of an intentional crime and whether such an act can be committed after the decedent's death. The question of the temporal scope of the civil codes in relation to the assessment of incapacity to inherit is also addressed. The final subtopic before the conclusion is the waiver of the grounds for incapacity to inherit. The thesis examines whether it is possible to remit the grounds listed in § 1482 of the Civil Code, what it means that waiver must be explicit, and raises the issue of waiver for the future.

The thesis reflects both domestic and foreign professional literature, especially Austrian literature, as the Austrian regulation is similar to the Czech one and can thus serve as a valuable source of inspiration. Key court decisions related to this topic are also discussed.

**Klíčová slova: incapacity to inherit, inheritance law, an act of the nature of an intentional crime**