

LEGAL COMPARISON OF REPRESENTATION GRANTED BY THE PRINCIPAL UNDER THE CZECH AND GERMAN CIVIL CODE WITH REGARD TO THE PROPOSAL OF A NEW CZECH CIVIL CODE

Legal representation (agency) belongs to the most important legal institutes within the private autonomy of each person. Acting on behalf of the principal, the representative (agent) has the authority to affect directly the legal position of the principal.

The valid Czech Civil Code of 1964 regulates this legal institute in only a few provisions, the commentaries on this Act and civil law books deal only with the basic information and there is not a single Czech monograph on this topic. It may invoke that this institute is not the complicated one but this would be fully wrong. There are many questions regarding the relationship between the principal and the representative or between the representative and the third party. A lot of problems are traditionally caused by the legal authority, its scope and ending.

In order to create a modern private law in the Czech Republic, which should put an end to the legal development of the past decades influenced by socialism, a new Civil Code should be created. This gives a chance also to a better regulation of agency adequate to the right of people to determine their private sphere and to the protection of third parties in good faith.

The German civil law always represented an alternative to the Austrian civil law the Czech is based on. German jurisprudence and courts deal with representation in detail and also the German Civil Code involves much more provisions on this topic. That is why the German regulation can be an inspiration for the Czech one.

Moreover, a recent development on the field of European private law should not get out of sight. Especially the Common Frame of Reference, which can be seen as a step toward a European Civil Code, may contribute to the future Czech regulation.

This work comprises of six chapters with stress on the current Czech and German regulation and their comparison. After a short introduction into the Europeanization a comparison of the Czech proposal and the German Civil Code as well as the Draft of Common Frame of Reference follows.

Representation (Agency)

Czech Civil Code

Legal Comparison