

## **Divorce agreement regulating settlement of mutual property relationships according to § 24a Family Code**

According to the report of Eurostat, the Statistical Office of European Communities, the Czech Republic belongs to the countries in the European Union where people get divorced the most. 67 married couples out of 100 get divorced. The number of divorces stood at 31.1 thousands in 2007. The reason might be in fact of the Czech Family Code (from 1963, hereinafter called “FC“), the most important statute of Czech Family Law, incorporated after the amendment in the year 1998 § 24a FC (the uncontested divorce) which makes the divorce procedure much easier.

It is quite fast and popular (70% of all divorces) procedure, because, the divorce court will not investigate the causes for the breakdown (as it does according to § 24 para. 1 FC – contestable divorce – “upon petition of any of the spouses, the court may divorce the marriage if the marriage is so broken that renewal of the marriage community can not be expected; in deciding on divorce, the court takes account of causes of the breakdown of marriage”), and will divorce the marriage – “if the marriage existed at least one year, the spouses have not been living with each other for at least six months and the other spouse joins the petition for divorce, the conditions mentioned in § 24 para. 1 shall be considered fulfilled. The court shall not find out causes of the breakdown and shall divorce the marriage if the spouses submit

- a) written agreements with officially verified signatures of the participants regulating settlement of mutual property relationships, rights and duties from their common residence and an eventual maintenance duty after the divorce; and
- b) a final and conclusive decision of court approving of an agreement about regulation of the condition of minor children after the divorce.”

The provision of § 24 para. 2 FC (if the spouses have minor children, the marriage can not be divorced if it is at variance with interests of these children based on special reasons) shall apply analogously.

The purpose of my thesis is to analyze written agreement between the spouses who want to get divorced regulating the settlement of mutual property relationships. The thesis is composed of five chapters, each of them dealing with different aspects of the “friendly divorce agreements”.

There is an introductory chapter, explaining why I chose this topic, and the main area I was doing my research on. It also explains the main purpose of my research is and what my initial hypotheses were.

Chapter One examines relevant Czech legislation. It mentions the basic information about the termination of the marriage. It slightly shifts the focus on the divorce and explicitly only the uncontested divorce (§ 24a FC). It shows the requirement for this “quick“ type of divorce.

Chapter Two describes the essentials of the friendly divorce agreement. The chapter is subdivided into eight parts. Part One describes the subject of the friendly divorce agreement. Part Two explains the form of friendly divorce agreement. Part Three deals with validity of friendly divorce agreement. Part Four shows vitiating factors. Part Five analyzes possibilities of avoidance of contract. Part Six challenges legal effects. Part Seven concerns liability. Part Eight evaluates passage of time.

Chapter Three is only concerned with the subject of agreement regulating settlement of mutual property relationships and explains it in detail.

Chapter Four concentrates on problems resulting from division of property of divorcing partners. It is subdivided into three parts, and provides detail examination of possible settlement of mutual property. Part One focuses on tenancy by the entirety. Part Two is concerned with tenancy of common. Part Three deals with sole proprietorship.

Chapter Five is subdivided into four parts and provides an outline of relevant protection of third party law. Part One illustrates the third party’s right to oppose legal action of the other party. Part Two looks at non-validity. The chapter Three explains legal effects. Part Four compares with the Criminal law.

Conclusions are drawn in the last chapter called “Závěr“. The main aim of the thesis is to look at the possibility of the property division of the divorcing spouses, and how the law secures the third party rights. I suggest that new legislation should have more detail explanations what are the legal term and what is ment by them, especially as