

Resumé

As the title of the thesis suggests, it provides a detailed insight into the field of community property law in the Czech Republic as well as into some of the related issues. The community property law regulates the marital property regime.

The thesis has been motivated by a few simple questions: What is the impact of the community property on spouses' everyday life? What are the individual attitudes to the advantages or disadvantages of community property? What shall we expect from the new legislation?

The thesis is divided into ten chapters.

The introduction explains the key term „community property“ and describes the history of the legal regulation of property relations of spouses.

The second chapter deals with the creation of community property. The community property system is presumed by the law and it is usually justified by the idea that such joint ownership recognizes the theoretically equal contributions of both spouses to its creation.

The third chapter focuses on the object of the community property. The community property is ordinarily defined as everything the couple owns and what is acquired during the marriage with the exception of the separate property owned by either of them individually. If the property is held as the community property, each spouse technically owns a moiety in the property. The community property includes both the property of all types (movable and immovable property) and obligations. The separate property, on the other hand, includes the property owned prior to the marriage, inherited property, and property received as a gift or acquired during the marriage by other reason provided by law. The separate property can also include anything that one of the spouses exchanges for some other

separate property. In this chapter, the community property versus the separate property of spouses are compared.

The fourth chapter discusses the content of the community property. The content means both rights and obligations arising between spouses, and both rights and obligations arising between spouses and the third parties. The marital property system should try to balance two sets of interests – the interests of the spouses and the interests of the third parties such as purchasers, creditors and business partners. Community property regimes emphasize the first but are less attractive in terms of the second.

In the fifth chapter the correlation between the business and the community property is examined. There is a significant effect of business of one or both of the spouses concerning not only their community property but also the property of the whole family.

The sixth chapter studies the ways of the modification of the community property. The Civil Code, as amended, allows the modification of the legal regulation of the community property, either by the spouses' wills, by the future spouses' mutual agreement, or by a court decision. The community property can be modified in relation to its extent, administration and time of creation. The end of this chapter discusses the consequences of a prenuptial agreement.

The seventh chapter deals with the impact on the community property enforcement.

The eighth chapter explains the reasons for the termination of the community property. The community property relationship terminates in case of the end of the marriage, whether by divorce, death or declared death of one of the spouses. A part of this chapter discusses the types of divorces and divorce proceedings. The community property may also be terminated during the marriage in case of bankruptcy or confiscation arising from a sentence.

The aim of the ninth chapter is to give a comprehensive view of the possible ways of the settlement of the community property. The legislation distinguishes three basic forms of the settlement of the community property, namely by the spouses' agreement, by court and by the law. The separate property does not need to be divided between the spouses.

The last, tenth chapter, describes how the proposal of the new Civil Code was created and explains the reasons which led the government to pass this new legislation. A part of this chapter is also an excursus into the foreign legislation. Finally I assess the state of the current legislation.