

Abstract

A comparison of the property regimes of spouses in Czech and French law

The aim of this masters thesis was to compare property regimes of spouses in Czech and French legal systems. The thesis is dealing with different aspects of „marital estate regime“ under the Czech Civil Code, „legal regime“ under the French Civil Code and the „legal regime“ under the new Czech Civil Code effective from 2014

In addition, the aim was also to examine whether the legislators of both countries based the legal texts on similar premises. In cases of missing positive legal norms, the thesis examined whether practice or case law leads the legislators to conclusions similar or completely different in the respective legal systems.

The secondary objective was to compare existing and new Czech Civil Code and evaluate the progress in the approach to the institute of marital estate.

The marital property law has to face traditionally two interests, namely individual interest of each spouse and the common interest of the conjugal union. It is important to reconcile these two interests to such extent that common interests will be given sufficient protection, but on the other hand, to extent not as restrictive as to cause aversion to the institution of marriage itself.

The thesis is composed of four chapters, each of them dealing with different aspects of the marital and non-marital assets in France and in Czech Republic.

Chapter One is introductory and defines basic terminology used in the thesis and introduces the major issues dealt with.

The core of this paper, Second Chapter, consists of comparing three masses, from which the property of a married couple is composed, i.e. the common masses and two exclusive non-marital masses.

The third chapter then concentrates to the administration and disposition with the marital and non-marital assets.

Conclusions, drawn in Chapter Four, examine the extent to which the juxtaposed jurisdictions prefer individualism over community, or vice versa.