

Summary

The thesis deals with the legal institution of assignment of contract from comparative point of view. The core of contract assignment lies in the replacement of a contractual party by a third person during the existence of a contractual relationship. As a new institution in Czech civil law introduced by the Civil Code as of 1. January 2014, the topic has not been sufficiently covered in legal theory and therefore its academic elaboration is highly actual. Before the 1 January 2014, the assignment of contract was not expressly recognised by the Civil Code 1964 or the Commercial Code, however the practice often pointed out the lack of legal regulation and looked for other ways to achieve the replacement of the contractual party. The goal of this thesis is to identify the diversities between the chosen legal regulations and to provide an evaluation of the Czech regulation based on comparison with foreign approaches. Comparison with the Italian civil law concept of *cessione del contratto* was chosen because of its major influence on other European codifications of contract law including the Civil Code 2012. Other regulations, such as the Civil Code of Netherlands, European Contract Code, Principles of European Contract Law, Draft Common Frame of Reference or UNIDROIT Principles of International Commercial Contracts are chosen because of the variety of solutions found with regards to certain aspects of assignment of contract and is subject to comparison where relevant.

This thesis is structured into introduction, five chapters further subdivided into sub-chapters and conclusion. The first chapter contains a general introduction into the issue of change of contractual parties and provides an overview of general theoretical approaches to the possibility of change of contractual parties. This chapter further contains concise description of basic types of these changes and deals with the differences between particular forms. A differentiation between the assignment of contract and novation or sub-contract is also covered by this chapter. The second chapter is dedicated to the historical background of development of the assignment of contract from Roman law to modern codifications of civil law. Third chapter characterises the approaches of foreign legal regulations to change of contractual parties during its existence with emphasis on permissibility of assumption of debt and assignment of contract in particular. The focus is given on international documents in the field of contract law and their understanding of assignment of contract. The fourth chapter presents an analysis of Czech regulation of assignment of contract and it is the main part of the thesis. This chapter is subdivided into six sub-chapters. The introduction to the legal

regulation before the introduction of the assignment of contract is followed by overall analysis of the new regulation under the Civil Code 2012. This chapter further discusses the scope of the assignment and describes the main forms of the replacement of contractual party under the Civil Code 2012, i.e. the contract on assignment and endorsement of the contract. The protection of the transferred party is assessed in detail, especially the necessity of its consent with the assignment and the right of transferred party to claim performance from the transferor. The last part of this chapter deals with the effects of the assignment on the mutual relationship of concerned parties. The chapter continuously compares the domestic and foreign regulations and highlights several deficiencies in the Czech legislation while providing suggestions for solution. The fifth chapter presents the outcome of the comparative analysis and identifies the positives and negatives of the Czech regulation. This chapter gives an evaluation of the Czech assignment of contract from the comparative perspective and offers several improvements. The conclusion summarises the results of the comparative analysis.