

Annotation

Development of Actio Pauliana in Czech civil law in comparison to German and Austrian regulation

This thesis deals with a historical development of the juridical institute of a contest and comparison of the legal regulation of relative ineffectiveness in Czech, German and Austrian legal system. This legal tool, which serves to protect the creditor against any legal act of the debtor, which prejudices the satisfaction of an enforceable claim of a creditor, has undergone essential changes during the time. The international comparative part of the thesis contains the biggest distinctions between the judicial conclusions of the courts in the respective countries and tries to evaluate whether some of the judicial conclusions of the courts of the above mentioned countries might also be applied by the courts in the Czech Republic.

Part of the thesis also analyses the regulation of ineffective legal acts within the scope of the insolvency procedure of the debtor which is in some cases different from the regulation in the civil code and ineffectiveness of the legal acts, which are directly ineffective due to certain provisions in the civil code and insolvency act.

Last part of the thesis compares the institute of objectionability according to the “old civil code” and the juridical institute of relative ineffectiveness according to the current legal regulation in the civil code after recodification, which was inspired by the contest order from 1931. The aim is to analyse which of the legal regulations is more favourable towards the creditor, or more precisely, which will provide the creditor with better securing of the recoverability of his claim. Various judicial decisions from the compared countries are used to deeper the comprehension of this legal instrument and to predict the possible way of development of the judicial practice of the Czech courts which may in some cases turn different direction after the recodification due to the return to the legal regulation of Austria and the first republic.