

Statute of limitations of a plea concerning the voidability of a will as part of inheritance proceedings

Abstract

This thesis deals with the possible statute of limitations of a plea concerning the voidability of a will as part of inheritance proceedings or, as the case may be, identification of the conditions under which such statute of limitations is possible, since this becomes a current issue in a situation when there is an increase in the number of drawn up wills and length of inheritance proceedings.

The thesis describes related legal institutions, including an analysis of related case law, and is applied to a specific case, whereas the author concludes that the statute of limitations of a plea concerning the voidability of a will as part of inheritance proceedings is possible, when the limitation period commences on the day that a disinherited descendant provably learned of the existence of a will and not the drawing up of a will or death of the testate.

The author's conclusion, to a considerable extent, contradicts the very latest judgement of the Supreme Court of the Czech Republic which is also analysed in the thesis. From the author's point of view, this judgement is a strongly law-making decision which is not entirely consistent with the previous decision-making of the Supreme Court of the Czech Republic. The judgement may also paradoxically and prospectively mean reduced protection of those disinherited (or overlooked in the will) heirs, because testates will start looking for different ways of settling their estate after they die.

Key words: testament voidability, limitation, testament, disinheritance