

Abstrakt

The topic of my paper is a legal arrangement regarding communal estate in the Czech Republic. This legal institute comes into power as a result of contracting marriage, which is done by the majority of people at some point in their lives. Marriage is a long-lasting union of a man and a woman and the communal estate, then, solves the legal and estate arrangements between the spouses and between the married couple and third persons. There have been different arrangements of such concerns throughout the historical and legal development, each of which depended on social and economical conditions of the time. Nowadays, the situation is certainly not perfect, but it can be said that it is very extensive and it is believed to become even more extensive and superior due to the new Civil Code, which is supposed to be accepted soon.

At the present time, the arrangements of communal estate are to be found in the law no. 40/1964 of the Civil Code. In particular, it is a part of the second Head of the law, named Joint ownership and Communal estate, under the term Communal estate.

My paper could be divided into three separate parts. In the first one (Chapter II), I describe the historical development of the institute with special regard to the development of the legal arrangement from the time of the Roman Law, through the feudal legal system, to the adoption of the Universal Civil Code in 1811. At the time, the Code codified the private arrangements, which included the legal and estate arrangements the between spouses. This is followed by the accommodation of Slovak approach as well as the amendments of the law no. 265/1949, no. 40/1964 from after the Second World War. These are the representation of a modern approach towards the issue.

The second part, which I consider to be the most important for the purpose of my paper, is a summary of Chapters III, IV, V and VI. These chapters focus on the description of contemporary legal arrangements of the issue. Chapter III thoroughly describes the subject of legal and estate union between a husband and a wife; their estate and liabilities which fall into the category of communal estate as well as their respective exclusive estates. The contemporary legal arrangement allows the married couple to arrange their estate differently from the respective law according to the modification of the communal estate. I address the modification in the Chapter IV. Chapter V is a description of the ways of expiration of the communal estate. Chapter VI, then, describes the possibilities of

settlement between the spouses. According to the applicable law, there are three possibilities of settlement: agreement between the spouses, adjudication and legal presupposition. This chapter may be the one with the greatest connection to the practice, since it is applied in the case of a breakdown of marriage other than caused by a death of one of the spouses. This paper does not omit the settlement in case of a death of one of the spouses, though.

The last part of the paper is a description of amendment design for the new Civil Code, which is a part of the Chapter VII. I mainly focus on the differences from the contemporary arrangement. The differences are numerous and some of them are depicted in a very detailed way and affect primarily the disputable parts of the contemporary arrangement. It is, therefore, possible to consider them positive.

I believe that the issue of communal estate is of great importance because of the number of people contracting marriage, which remains high despite its gradual decrease. It cannot be assumed that marriage will become an obsolete institution, therefore, the arrangements of the estate of a married couple will certainly retain its place in the Private Law.