

SUMMARY- FORCED HEIR AND DISINHERITANCE

The subject of this thesis is the forced heir and disinheritance. The purpose of the thesis is to describe the current and future legal regulation while comparing them.

Every testator is obliged to leave some part of the property to his or her forced heir. The forced heir is the testator's descendant and can be either minor or major. The only way for testator to avoid this obligation is to write a deed of disinheritance. There is a specified number of reasons of disinheritance; they are as follows: 1) the forced heir did not provide necessary assistance to the testator in disease, in old age or in a certain serious case 2) he did not show real interest in the testator 3) he was sentenced to imprisonment for at least one year 4) he led a dissolute life. The New Civil Code has replaced the third reason by following: the forced heir was sentenced for a criminal offense, which indicates his wicked nature, and adds one more reason of disinheritance, allowing to the testator to disinherit a wasteful forced heir. Both the current and future regulation of disinheritance are criticized for their generality and unclear definition of legal terms.

The thesis is composed of 4 chapters. Chapter One is introductory and defines basic terminology used in the thesis: the forced heir and the disinheritance. I try to analyze these legal concepts in general, regardless of the specific legislation. Chapter Two describes historical evolution. I focus on 4 periods which are the most important to understand the current legislation. The first part of this Chapter the roots of the issue in question in Ancient Rome. Next parts examine the forced heir and disinheritance in the Common Civil Code of 1811 and the Czech Civil Codes of 1951 and 1964.

Chapter Three and Four are key parts of the thesis. Both are subdivided into three parts, which provides a detailed description of the current and future Civil Code regulation. Third part of both chapters compares the two Codes. I try to provide the most accurate and comprehensive description, focusing on the forced heir, the amount of obligatory part and consequences of disrespect protection of forced heir. A large part of my thesis investigates reasons of disinheritance, describing them with regard to jurisprudence of the Supreme Court and also to effect of disinheritance and requirements of deed of disinheritance.