

Abstract

The aim of my thesis is to analyse the new legal regulation of community property included in the “new” Czech civil code – Act No. 89/2012 Coll. – and in this connection, to focus mainly on the settlement after its termination. The new legislation of this issue is quite brief and there are many questions arising in this context which are not clear.

The thesis is composed of nine chapters. Chapter one characterises the legal term of the community property and its basic features. Chapter two describes marital property relations in a historical context, beginning with their roots in the Roman law and continuing with particular historical periods of legal regulation of these relations on the territory of the current Czech Republic.

Chapter three outlines an extent of the community property and its governance in the statutory arrangement. Chapter four is concerned with contractual modifications of the community property and with an arrangement established by a court decision. A part of this chapter also investigates a question of protection of third parties in the connection with the community property.

Chapter five deals with possible ways how the community property terminates. It explores both the ways of the termination of the community property although marriage continues and the ways of the termination of the community property as a consequence of the termination of marriage.

Chapter six looks at an issue of the settlement of the community property. First, it concentrates on an agreement on the settlement of the community property. Second, it explicates a statutory assumption of the settlement of the community property. Subsequently, it outlines the settlement of the community property within inheritance proceedings. The last part of this chapter relates to a common equipment of family household.

Chapter seven analyses a judicial settlement of the community property. At first, essential fundamental principles and basis for the settlement are highlighted. After that, an evaluation of the community property for the settlement purposes is described. The following part of this chapter concentrates on an issue of the settlement of so called investments from sole properties of spouses in the community property and vice versa.

It focuses also on the question of reduction and valorisation of the investments and illustrates the way how to enumerate correctly amount of settlement shares of spouses after the investments have been taken into account. Finally, this chapter deals with the question of possible exception from the principle of equal settlement shares of spouses and gives potential reasons why to apply this exception.

Chapter eight compares the current legal regulation of the community property settlement with the previous one comprised in the civil code of 1964. Chapter nine outlines German and Austrian legal regulations of the marital property relations, focusing on its settlement.

Conclusion of my thesis is that the new legal regulation should be amended to make clear particular problematic issues. Some essential principles constituted by judicial decisions should be adopted to the legal regulation.