

Fideicommissum

Abstract

The diploma thesis addresses the institute of fideicommissum or fideicommissary substitution which was reintroduced in the legal order of the Czech Republic by the new Civil Code No. 89/2012 Coll.

The institute of fideicommissum is part of private law, in particular of inheritance law, which can be found in Chapter 3, Part 3 of the Civil Code. Fideicommissum assists to adjust property and family relations, in particular by preserving and transferring family assets for private purposes in accordance with the current needs of today's society. The institute is nowadays very practical as it enables a testator to dispose of his/her property in a better way in the event of his/her death as it allows the testator in predictable situations to appoint any persons who are to take the position of the original heir specified in the last will and testament in the event of heir's death.

The first part of the thesis focuses on the creation of the institute of fideicommissum, its development and its various forms in which the institute occurred throughout the history.

The second part of the thesis introduces institutes of private law, in particular inheritance law which is linked with the institute of fideicommissum or has some common features. This part deals with the essence and significance of this institute, both from its positive and negative aspects.

The third and fourth parts of the thesis focus on the current legal regulation of fideicommissum, both by the regulation of substantive and procedural law.

The last part of the diploma thesis compares this institute with the legal orders in Germany and Austria, not only due to the fact that Austria and Germany are part of central Europe as is the Czech Republic, but also due to the common historical roots and the influence of the legal regulation of inheritance law by these countries not only in the past, but also at present.