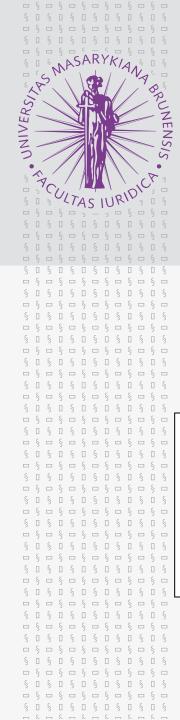


MASARYK UNIVERSITY FACULTY OF LAW

CZECH FAMILY LAW

HISTORY - PRESENT - FUTURE

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HISTORY

MAIN TURNING-POINTS

- the establishement of the Czechoslovak republic (1918)
 - the second word war (1939 -1945)
 - the communist take-over (1948)
 - the collapse of communism (1989)
 - the accession to the European Union (2004)

1918 the establishement of the Czechoslovak republic

- Act No. 11/1918 Coll. reception of the law of the Austrian -Hungarian Empire legal dualismus
- Czech lands: CC ABGB (1811)
- Slovakia: Hungarian law (based on legal customs)

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- Act No. 320/1919 Coll., so called Marriage Amendment
- Act No. 121/1920 Coll., Constitution (new principles: equality between a man and a womam, all children)
- Act No. 56/1928 Coll., Adoption Act
- 1937: legal steps for recodification of CC failed

1939 - 1945 the second word war

(16. 3. 1939 - 8. 5. 1945)

- three catelories of inhabitants:
 - German citizens
 - Citizens of Protectorate
 - Citizens under "racial" rules from Norimberk (15. 9. 1935) on Protection on German Blud and German Honour prohibition of marriages between the German race and Jew
- property aspects
 - Act from 21. 6. 1939 on aryanize of Jewish property

1948 the communist take-over

- Act No. 150/1948 Coll., Constitution
- Soviet pattern atomisation of legal order:
 - Act No. 265/1949 Coll., Family law Act
 - Act. No. 141/1950 Coll., CC
 - Act No. 59/1952 Coll., on Marrying Aliens
 - Act No. 69/1952 Coll., Children Act

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equality of a man/a woman equality of children no guilty divorce

elimination of church bagatelisation of property in family

1963/1964

- Act No. 94/1963 Coll., Act on the Family
- Act No. 40/1964 Coll., CC

till present - see:

http://vsp.blog.cz/0810/ceske-zakony-v-anglictine

1989 the collapse of communism

- the access to the Human Hight Conventions
- Amendments to the Act No. 100/1960 Coll., Constitution
- Act No. 23/1991 Coll., Charter of Fundamental Rights and Freedoms
- Act No. 509/1991 Coll., great amendment to CC
- Act No. 234/1992 Coll., amendment to AF (civil wedding)

Establishment of the Czech republic

- reception of old laws of the Czechoslovak Republic
- Act No. 1/1993 Coll., Constitution
- Act No. 2/1993 Coll., Charter of Fundamental Rights and Freedoms
- Act No. 91/1998 Coll., great amendment to AF (no ideology, new conception of divorce, parental responsibility, guardianship, maintenance, adoption etc. + community of property of spouses)
- Act No. 359/1999 Coll., Children Act

2004 the accession to the European Union

- 1st May 2004
- major changes occurred after 1989 human rights dimension of interpretation and aplication
- old laws from 60' still in force (AF, CC)

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Act No. 115/2006 Coll., on Registered partnership



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PRESENT

http://vsp.blog.cz/0810/ceske-zakony-v-anglictine

The Act on the Family - structure

- I. Part Marriage
- II. Part Relations of Parents and Children
- III. Part Maintenance Duty
- IV. Final Provisions

The Civil Code - structure

- I. Part: General Provisions
- II. Part: Right related to Things:
 - § 143 § 151 Community of Property of Spouses
- III. V. Parts: repealed
- VI. Part: Liability for Damage and Unjust Enrichment
- VII. Part: Inheritance
- VIII. Part: The Law of Obligations
 - § 703 ff. Joint Lease of a Flat by Spouses
- IV. Part: Concluding, Transitional and Repealing Provisions



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FUTURE

Legislative Intention of Ministry of Justice No. 2623/00-L from 29. 1. 2001

the new Civil Code

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- almoust 20 years of expectation of a full reform
- early 1990's: prof. Knapp and prof. Plank
- middle of 1990's: *prof. Zoulik*
- 2001: prof. Eliáš
 - great support of government
 - the draft: www.justice.cz, www.psp.cz
 - end of 2009 Parliament
 - family law: the second part of "draft" Civil Code
 - discontinuity with communist law
 - comeback to European Legal Traditions