

Ondřej Frinta

Legal Facts



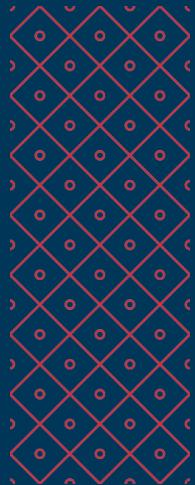
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Chapter 1

The Notion of Legal Facts



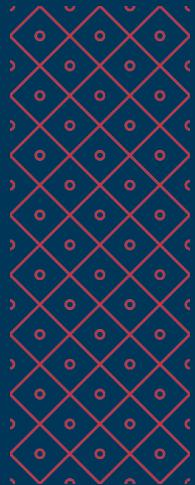
The Notion of Legal Facts

- subjective rights and duties always **arise, cease to exist and change due to a certain reason** – such reason may be economic (it is called *cause*) or legal
- **the legal reason (legal title)** is a sufficient reason for the institution, change or extinction of a right pursuant to the applicable law
- with respect to civil law, rights may arise **directly by the law (ex lege)** = the statute itself creates a right without linking it to any further condition
- or rights arise conditionally = in such manner that the law anticipates and approbates a certain right, but requires that **another legally relevant fact is affected**



The Notion of Legal Facts

- a **legal reason** is:
 - a) the **statute itself** (in exceptional cases)
 - b) **statute-based**
 - a constitutive decision of a state authority (constitutive acts applying the law)
 - conduct of subjects of law – lawful / unlawful acts
 - facts independent of the conduct of subjects of law – events
 - facts specified under clause (b) above are called **legal facts**
- **legal facts = facts causing legal consequences on the basis of the law**



Chapter 2

The Classification of Legal Facts



The Classification of Legal Facts

- **legal facts are divided into two large groups:**
 1. legal facts based on the will of natural persons
 2. legal facts that do not depend on the will of natural persons
- **legal facts based on the will of natural persons are:**
 - a) legal acts (acts in law)
 - b) illegal acts
 - c) constitutive court or other official decisions
 - d) other personal manifestations of will



The Classification of Legal Facts

- **legal facts that do not depend on the will of natural persons:**
 - include various natural and social phenomena of a different kind, character and nature that have, under law, certain legal consequences
 - such events cannot be directly controlled by a natural person but can be foreseen by such person, who can take measures to avert the legal consequences connected with them (e.g. natural disaster, death of a person, lapse of time, etc.)



Chapter 3

Legal Acts (Acts in Law)



Legal Acts (Acts in Law)

- legally relevant acts are **the most common and practical legal facts**
- **manifestations of will**, which are permitted and protected by objective law, aiming particularly at the establishment, modification or extinction of such rights and duties that are attached by the law to such manifestations
- legal facts that consist of **a conscious and voluntary behaviour** of a natural person
- acts are classified into **legal acts and illegal acts** depending on whether objective law approves them or prohibits them
- acts (legal or illegal) can be carried out either by **a certain activity of the subject** (by its action), or **by inaction of the subject** (a failure to act)



Legal Acts (Acts in Law)

- in order to exist and to be valid, legal acts must meet all attributes determined by the law:
 - 1) the existence of a person manifesting his will
 - 2) the existence of will
 - 3) the manifestation of will
 - 4) the existence of the object of the legal acts



Legal Acts (Acts in Law)

1. The existence of the person manifesting his will:
 - legal act is capable to give rise to legal consequences only if the person who has undertaken it is **capable of exercising rights and performing duties and of undertaking legal acts**
 - there must be a subject of a civil law – a subject with legal capacity = **the capability to have rights and duties** arising from civil law relationship
 - the subject who undertakes a legal act must also be **capable to perform legal acts** – to have the capacity to establish, modify or cancel, by own's acts, civil law relationships



Legal Acts (Acts in Law)

1. The existence of the person manifesting his will:
 - **natural persons (individuals)** acquire legal capacity to be the holder of rights and obligations at birth (legal capacity is also granted to an unborn child – *nasciturus*), provided that he is born alive and (as the case may be) if other conditions determined by the law are met (e. g. provided that granting the legal capacity is beneficial for the *nasciturus*)
 - **a legal person** may acquire rights and assume obligations since it is established – the effective date of its registration into a commercial or other register prescribed by the law
 - there must be natural persons authorized by the law or under the founding agreement or deed to take on behalf of the legal entity legal acts



Legal Acts (Acts in Law)

1. The existence of the person manifesting his will:
 - the competence of a person to perform legal acts **is acquired gradually or in stages and is fully assumed when the person comes of age** – in general, a person becomes mature when he or she reaches eighteen years of age (sometimes the full capacity to perform legal acts can be achieved by a person younger than 18 years of age – typically by concluding marriage after achieving 16 years of age with a court permission to conclude marriage or by granting legal capacity by a court decision)
 - it is also necessary to distinguish between the capacity to perform legal act and the capacity to perform illegal acts (**delinquent capacity**) and to carry the consequences of such illegal behaviour



Legal Acts (Acts in Law)

2. The existence of will:

- a psychological state of the person acting to achieve the contemplated consequence
- a legal act must be made **freely and seriously, certainly and comprehensibly** and all requirements must be fulfilled at the same time
- a legal act is made freely only if **the acting person was not deprived of a possibility to freely decide** whether to make or not to make a manifestation of will – an act in law is not taken freely if it is taken under impermissible pressure of the other party to the contract or of a third party
- a legal act is not made seriously **it lacks intent** or because the actual intent is different



Legal Acts (Acts in Law)

3. The manifestation of will:

- an act in law must be made certainly and comprehensibly
- a legal act is incomprehensible **if it is impossible to identify the content of the will** of the person performing such act, even by an interpretation
- a legal act is uncertain **if the content of the manifestation of will of the person performing such act is vague**, even though comprehensible



Legal Acts (Acts in Law)

4. The existence of the object of an act in law:

- the object of an act in law is **a performance which must be possible**
- it must be possible **from the outset** = at the time when such act in law is taken
- any legal act that **contravenes or circumvents the law by its content or purpose** is not permitted, as well as a legal act that contravenes good morals or public order



Legal Acts (Acts in Law)

- the most frequent legal acts are **contracts**
 - a contract = a **bilateral** or, rarely, a **multilateral legal act**, arising due to a **consensus** = through a complete and unconditional acceptance of a proposal to enter into a contract (an offer, a bid)
 - the constitution of a contract requires an agreement among the parties on its **essential matters (*essentialia negotii*)** + in case that the proposal also contains other than essential matters, its conclusion requires that the offeree expresses its unconditional consent with those particulars as well (**an agreement with all the contents of the proposed contract**)



Legal Acts (Acts in Law)

- an acceptance of an offer, accompanied by supplements, reserves, limitations or other modifications of such offer, or a partial acceptance thereof, is not an acceptance but **a rejection**
- at the same time, such rejection of a contract is considered as a proposal to enter into a contract presented by the offeree, i.e. as its **counterproposal**
- if the parties have reached consensus, i.e. if the contract has been concluded, the principle ***pacta sunt servanda*** shall come into force
 - the parties to a contract are bound by the rights and duties arising therefrom



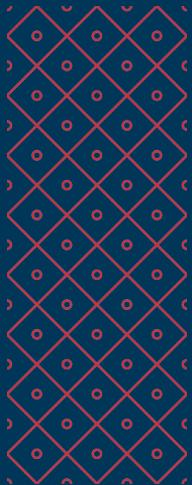
Chapter 4

Death of a Person



Death of a Person

- if the death cannot be ascertained by examining the body and **issue of the death certificate** but it is possible to prove, by other evidence, that the person is no longer alive, such person **may be declared dead by the court (the “proof of death”)**
- if it is ascertained that the person survived the date specified in such ruling and died later or is still alive, **the court amends or repeals its decision** without a motion
- the court may also declare as dead a missing natural person, if it may be reasonably concluded with regard to all circumstances that such person is no longer alive **(declaring a person dead on major likelihood of death)**



Chapter 5

Significance of Time



Significance of Time

- the lapse of time represents a significant legal fact **causing the establishment, modification or cancellation of civil law relationship**
- it usually gives rise to consequences in connection with an existing civil law relationship
- in some cases, the lapse of time gives rise to legal consequences as such, **without any additional legal act** (e.g. in the case of coming of age)
- in other cases, it gives rise to such consequences **only in connection with a legal act** (e.g. in the case of statutory limitation)



Significance of Time

1. Extinction of right by the expiry of the period limiting its existence

- if the existence of a right or obligation is limited to a certain period, such right or obligation will cease to exist by the expiry of such time limit and **such extinction does not require any further legal act**
- extinction occurs **on the last date of such time limit** (e.g. a right to use a borrowed thing)



Significance of Time

2. Preclusion

- **a right that is not asserted within the determined time limit ceases to exist** and will not remain even in the form of in-kind obligation
- a debt repaid by the debtor voluntarily after the expiry of the preclusive period will represent **unjust enrichment of the creditor** resulting for the performance of a debt which does not exist from legal point of view
- the extinction of right is **taken into account by the court in its official duties**
- it must be **expressly stipulated in the law** that the right shall cease to exist if not asserted within the prescribed time period



Significance of Time

2. Statutory limitation

- a legal consequence of **futile lapse of a certain time limit**
- the legal consequences of a limitation occur in such case in which a time limit stipulated by the law has elapsed **without the assertion of the rights of the entitled person** (the creditor) or the exercise thereof before a court
- the lapse of the limitation period constitutes only **the debtor's right to claim the limitation** =) if the debtor uses the limitation as an argument before the court, the creditor cannot be granted the respective statute-barred right



Significance of Time

2. Statutory limitation

- the purpose of the statute of limitation is **to prevent complicated disputes** that may arise if there was an unlimited, or too lengthy, possibility to assert the right before the court
- the longer is the period that has passed from the establishment of the disputed right, **the more difficult is the substantiation of facts** and, sometimes, even the grounds become unclear =) the law sets a time limit for the possibility to assert one's right
- principle that everyone has to take **proper care of his own rights (*vigilantibus iura*)**



Significance of Time

2. Statutory limitation

- the failure to assert a right within the limitation period **impairs the creditor's right**
- the assertion and enforcing such right through a state authority becomes impossible if the debtor raises **the objection of statutory limitation**
- the right continues to exist and is only impaired (in-kind obligation) =) the debtor may fulfill his debt voluntarily even after the expiry of the limitation period – **no unjust enrichment will occur** in such case on the creditor's side
- the court **does not take into account** the statutory limitation under its official duties



Significance of Time

2. Statutory limitation

- if the debtor asserts the objection, the claim ceases to exist =) **the right becomes unenforceable** (cannot be granted by the competent authority, usually the court); if the debtor fails to raise the objection of statutory limitation =) the asserted right is **granted**
- **all property rights** are subject to statutory limitation, **except for certain rights** which the law expressly stipulates that cannot be statute-barred (e.g. the ownership right)
- **the length of the limitation period** is determined by the law



Significance of Time

2. Statutory limitation

- the start date of the limitation period is determined on an objective or subjective basis
- **the generally determined objective beginning** of a limitation period is the day on which the relevant right could have been exercised for the first time
- in certain cases, the objective beginning of the limitation period depends on subjective facts (e.g. the right to compensation for damage and to surrender of unjust enrichment)
- **the subjective limitation period** may commence at any time during the relevant objective period, but ends not later than by the expiry of the objective limitation period



Significance of Time

2. Statutory limitation

- the right to plead limitation **is not bound to a certain debtor** – may be asserted by any of the debtors involved in the given legal relation
- in case of a change in the person of the debtor (by death, assumption of the debt or otherwise), **the new debtor may plead limitation under the same conditions** as the original debtor
- the change in the person of the debtor or the creditor **does not affect the course of the limitation period**, which continues in case of a change in the subjects of the obligation in the same matter as if not such change has taken place



Significance of Time

2. Statutory limitation

- there may be some **impediments to the limitation** period, which may lead to the suspension or interruption of the limitation
- **a suspension** of the limitation period as such occurs in case that the limitation period has stopped running due to an impediment stipulated by the law = its running is suspended and the same (or extended) period continues to run when such impediment has been eliminated
- **an interruption of the limitation** occurs in the case in which no note is taken of the lapse of a part of the limitation period (such part of the limitation period becomes legally irrelevant) and a new limitation period commences to run



Significance of Time

3. Prescription

- represents **original acquisition of ownership right based on possession**, which has lasted for a predetermined period
- the prescription period starts at the time when there occur **the prerequisites for prescription**, particularly with the establishment of duly authorized possession, and ends with the expiry of its last day



Significance of Time

3. Prescription

- the holder must be in **good faith** that the right (thing) belongs to him
- expiration of **the prescription period** stipulated by the law
- **the object** must be capable of prescription
- rightful possession must exist **without interruption for the entire prescription period** (but may also include the period during which the thing was in rightful possession of the legal predecessor)
- a court decision on prescription has only **a declaratory nature**



List of Sources – Civil Code, Case Law

Relevant provisions of Czech Civil Code:

Sects. 545-654

Case law:

CZ: CC Case No II. ÚS 635/09

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Faculty of Law
nám. Curieových 901/7
116 40 Prague 1
www.prf.cuni.cz

 **Charles University**

