

# **Modifications of Contractual Obligation at Construction Contract**

## **Abstract**

This thesis deals with the issue of the modification of the obligation arising from a public contract. Attention is paid especially to public works contracts, specifically for major infrastructure projects for the construction of roads and motorways. The interest is focused mainly on the Road and Motorway Directorate of the Czech Republic, as one of the most important public contracting authorities. The view on the modification of the contractual obligation is put in context with the FIDIC conditions of contract, which the Road and Motorway Directorate of the Czech Republic has been successfully used in its contractual relations for many years.

The core of the thesis is an analysis of the issue of the so-called substantial modification of the obligation, following the presstext judgment, and individual types of the modification of the obligation not considered substantial according by section 222 of Act No. 134/2016 Coll., on Public Procurement. There is also commentary on the compliance of this currently effective legislation with Directive 2014/24/EU of the European Parliament and of the Council and the changes compared to the provisions in Act No. 137/2006 Coll., on Public Procurement. The public contracting authority's limits in the improvement suggestion according to CONS are also mentioned.

The text also includes an introduction to the issues of the construction project, focusing on its participants, stages and specifics of the construction of the transport infrastructure. There is mention its uniqueness and risks, as well as the inevitability of implementation of changes of the work during its construction.

Furthermore, the modification of the contractual obligation is discussed in the context of private law. Attention is paid to the concept of the contractual obligation, the modification of the obligation according to Act No. 89/2012 Coll., Civil Code, and especially the modification of the obligation according to CONS, i.e. variations. This view is followed by putting the modification of the obligation into the context of public procure-

ment law, incl. a brief overview of the development of the legislation of the modification of the obligation in both the Czech Republic and the EU.

The thesis concludes with an acquaintance with the cardinal factors affecting the assessment of the modification, such as the reasons for the modification, the nature of the contract and proportionality.

**Keywords: modification of obligation, construction contract, FIDIC**