

The notification of lack of conformity and consumer remedies in contracts for the sales of goods

Abstract

This thesis analyses the notification of lack of conformity and consumer remedies in contracts for the sales of goods. This thesis aims to analyse the provisions of Act. No. 89/2012 Coll., Civil Code, and Act. No. 634/1992 Coll., Consumer Protection Act, including recent amendments by Act. No. 374/2022 Coll., which entered into force on 6th January 2023, and reacted to some problematic practical issues. These provisions will be compared to corresponding provisions of Directive (EU) 2019/771.

The first chapter of this thesis focuses on provisions of Civil Code regarding consumer remedies for the lack of conformity. Individual sections of this chapter describe requirements for conformity, exceptions from lack of conformity, the remedies which a consumer is entitled to, and the hierarchy of these remedies. Furthermore, the notification of lack of conformity is described according to sections 1922 and 2165 of Civil Code. The recent amendments regarding the liability of the seller for any lack of conformity existing at the time of delivery are also described. Furthermore, the thesis deals with the obligation to notify, according to which the consumer has to inform the seller of a lack of conformity within a certain period of time. This chapter also analyses the provisions of Directive 1999/44/EC and Directive (EU) 2019/771 and the case law of the Court of Justice of the European Union.

The second chapter of this thesis focuses on provisions of Consumer Protection Act regarding consumer's claim. First, the concept of consumer's claim is introduced. Individual sections of this chapters further analyse filing of the claim, settling of the claim and the consequences of elapsing the statutory period for settlement by the seller. Some problematic issues related to this topic are further analysed, such as at what moment the claim is filed, whether it is necessary to deliver the goods to the seller, at what moment the claim is settled, whether it is necessary to inform the consumer about settlement of the claim. Case law related to these issues is also introduced. This chapter also contains an appraisal of amendments by Act. No. 374/2022 Coll., which adopted the Directive (EU) 2019/771, and reacted to some aforementioned issues. In the end of this chapter, the seller's obligation to inform consumers about their rights regarding the lack of conformity according to section 13 of Consumer Protection Act is introduced in context with unfair contract terms according to Civil Code.

Klíčová slova:

Lack of conformity, consumer remedies, consumer