

Usury and Lesion in Business Law Realitions

Abstract

The main objective of the thesis is to investigate the issue of usury and lesion in business law realitions and to analyse the possibilities that entrepreneurs have to protect themselves from these undesirable phenomena by means of legal institutes of private law.

Particular emphasis is placed on the relationship between the general private law remedies, which serve to correct the substantive incorrectness of legal actions, and the special provisions that exclude protection of entrepreneurs against usury and lesion. In the course of the thesis we will focus on the evaluation and analysis of these institutes and their possible impact on business entities in business dealings, including a comparison with foreign legislation (mainly German and Austrian) and practical recommendations.

In its examination, the thesis is progressively divided into several subparts, with the first topic addressed being the protection of the weaker party, the definition of the situation and the reasons for the protection of the weaker party, including the ideological background. The emphasis in this chapter is on the entrepreneur as the weaker party and the possible abuse of the stronger position.

In the second and third parts, I focus on the definition of the concepts of usury and lesion. An important element is the determination of the subjective and objective features that result from the existence of usury and lesion. I conclude the chapter with an analysis of the consequences of usurious conduct.

In the next part, the thesis deals with the special regimes of usury and lesion under the provisions of § 1797 OZ, with the first subchapter mainly devoted to the general interpretation of the mentioned provision and the second subchapter to considerations on the possibilities of applying the correctives of substantive correctness to commercial relations.

For comparison purposes, the thesis also presents analyses of the legal regulations of Austria and Germany, and points out where the regulation of usury and lesion is regulated similarly, differently, or not at all. In the following and final part of the thesis itself, practical recommendations for concluding contracts in commercial relations are stated in order to avoid possible disputes, complications or ambiguities.

Keywords: Usury, Lesion, Entrepreneur, Weaker party, Business Law Realitions