

Unilateral changes in commercial terms

Abstract

The subject of this thesis is the issue of unilateral changes in commercial terms in B2C relations, both in general legislation and in sectoral legislation, specifically in the Energy Act. The thesis aims to reveal the gaps in the legal regulation and at the same time to fill these gaps or to offer alternative solutions.

The thesis is divided into five chapters. The first two chapters represent the theoretical framework necessary for the following parts of the thesis. The first chapter is devoted to commercial terms as a means of standardization and rationalization of legal relations, in particular their concept in Czech legal system, which is crucial for dealing with related institutes, including unilateral changes. The chapter also briefly discusses the conditions of incorporation of standard terms into a contract as a prerequisite for subsequent amendment of commercial terms. The second chapter defines terms that I consider to be important in relation to unilateral changes to commercial terms.

The third chapter finally opens up the issue of unilateral changes in commercial terms from a general point of view. It discusses the systematic classification in the Civil Code (CC), the adherence of the term and the development of the institute.

The most important part of this thesis is Part IV, wherein I examine the nature of the provisions of Section 1752 CC and the conditions set out therein. In the chapter, I also point out the ambiguity and vagueness of certain terms and the gaps in the legislation, which are not always filled by legal practice or binding interpretation. The chapter also includes a comparison of Czech and German legislation on unilateral changes to commercial terms.

An equally important part is the fifth chapter, wherein I examine the legal regulation of unilateral change of contractual terms in the Energy Act with a focus on the deviations from the general legal regulation of the Civil Code. In this chapter I also open the door to a possible variant solution, drawing on the German energy sector legislation and the conclusions of the European Court of Justice concerning the German legislation in particular.

In the conclusion, I present a critical analysis of the findings I have reached during my work and offer possible alternative solutions through a comparison of Czech and German legislation, but also through an analogous legal regulation of unilateral changes in another legal sector.

Key words: unilateral change, commercial terms, unfair terms, electricity, consumer contracts