

Business contracts concluded with consumers

Abstract

This diploma thesis focuses on the issue of unfair terms in consumer contracts. This topic presents a particular sector of the legal regulation of business contracts concluded with consumers. The Czech republic's regulation on unfair terms in consumer contracts derives from the law of European union. In particular it concerns the Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts. The system of protection introduced by the Directive is based on the premise that the consumer is in a weak position in regards to both his bargaining power and his level of knowledge. This leads to the consumer agreeing to contract terms drawn up in advance by the trader without being able to influence their content. Therefore, the Directive forbids such term if, contrary to the requirement of good faith, it causes a significant imbalance in the parties' rights and obligations arising under the contract, detriment to the consumer.

Initially the Czech legislator implemented said Directive in an inapt manner. These shortcomings are being repaired by the recently adopted amendment to the Civil Code and Act on Consumer Protection. This amendment also reflects the current development of the European union's consumer law. The core of this thesis is the analysis of the changes in the legal regulation brought by this amendment in regards to unfair terms in consumer contracts.

The first part of this thesis presents and analyses some of the general terms of consumer law. The second part outlines the recent development in the field of consumer law on the level of European union and how it is reflected in the Czech law. The third part focuses on the issue of unfair terms itself. It compares the state of legal regulation before and after the amendment in regards to whether it meets the requirements stipulated by the Directive. In particular it analyses the legal term, the criteria upon which contract terms are assessed in order to be deemed unfair, the lists of unfair terms, the legal consequences of unfair terms and lastly the newly established public law sanctions for breaching the prohibition of unfair terms in consumer contracts.

Key words: unfair terms, consumer contract, consumer protection