

NON-RESIDENTIAL PREMISES AND DISPOSITION THEREOF

The purpose of my thesis is to generally analyse disposition of non-residential premises, which is in the long term a vital and relevant topic. The thesis is focused on the lease and sublease of non-residential premises. Of the whole scope of rights of disposition I have focused on the right to grant leases, because its legal relations are very common in our daily life. Main goal of the thesis is to analyse the application of relevant Czech legislation and current Czech case law in case of the lease of non-residential premises.

The thesis is divided into three chapters, each of them dealing with different aspects of disposition of non-residential premises. Chapter One is introductory and defines the term non-residential premises and the basic terminology. The first chapter consists of two parts. Part One describes non-residential premises in general and explains difference between non-residential premises as a subject of lease and non-residential premises as a subject of ownership. Part Two deals with legal definition of non-residential premises given in the Act 116/1990 Sb. on the lease and sublease of non-residential premises.

Chapter Two is divided into five parts and provides close analysis of lease and sublease of non-residential premises. Part One studies the relationship of the Act 116/1990 Sb. to the Civil Code. Part Two provides at a comprehensive analysis of the essentials of legal relations. The object, purpose, rent and the terms of the lease are parts of the analysis of the lease creation. Duties of a landlord and tenant are described. The sublease of non-residential premises is explained in part Three. Part Four deals with different ways of termination of the discussed legal relations. Practice of the courts is very often used as an example in the text to demonstrate application of the relevant provisions of Czech legislation.

Current legal regulation concerning the lease of non-residential premises is not trouble free. Most of difficulties are caused by combination of three different acts: the Act 116/1990 Sb., the Civil Code and the Commercial Code. Some of these troubles are solved by practice of courts, but some of them still remain. Part Five consists of proposals de lege ferenda with respect to the new Civil Code proposition, which should

become effective probably on 1 January 2012. New Civil Code should replace the Act 116/1990 Sb. and should regulate lease of non-residential premises by itself. New Civil Code should incorporate most of provisions from the Commercial Code as well. So, most of these topical problems caused by concurrent application of these three acts should disappear.

Chapter Three concentrates on the other rights of disposition of non-residential premises. Property of non-residential premises signifies dominion or right of use, control, and disposition which one may lawfully exercise. Right of disposition means one or more of the rights described in this chapter such as: the right to make alterations and renewals of non-residential premises, the right to any benefit from non-residential premises, the right to transfer or sell non-residential premises, the right to encumber non-residential premises with a real burden or the right to abandon non-residential premises. An evaluation of achieved findings is given in the final part of the thesis.