

Pre-Contractual Liability (Culpa in Contrahendo)

Summary

The purpose of my thesis is to analyse the issue of pre-contractual liability from the microcomparative perspective which subsequently serves as the tool to characterise the main features of pre-contractual liability in the realm of Czech Civil and Commercial Codes. The reason for my research is to prove the existence and importance of pre-contractual liability in the Czech legal order as well as in the sphere of the European Union in the light of its respective case laws.

The thesis is composed of five chapters, each of them dealing with different aspects of negotiation stage and pre-contractual liability. Chapter One is introductory and defines basic terminology, methodology used in the thesis, scope, and aims.

Chapter Two examines chosen foreign legal regulations of pre-contractual liability. The essential attention is given to Germany, Austria, and Switzerland as those legal systems are very close to the Czech one (historically and geographically). The French view is also considered because legislators seek to prepare the reform of obligation laws. Finally, common law of the United Kingdom of Great Britain and Northern Ireland and the United States of America is discussed and challenged because of its adverse approach to pre-contractual liability.

Chapter Three is subdivided into two main parts; first, it is concerned with the United Nations Convention on Contracts for the International Sale of Goods and the UNIDROIT Principles of International Commercial Contracts. Second, it investigates various attempts taken by the European Union in the field of contract law with the focus on pre-contractual liability, thus Principles of European Contract Law, Draft Common Frame of Reference, Proposal for a Regulation on a Common European Sales Law, and Regulation (EC) No 864/2007 on the Law Applicable to Non-Contractual Obligations (Rome II) are described.

Chapter Four concentrates on the Czech concept of pre-contractual liability in Civil and Commercial Codes. The current situation is reviewed, then the author looks at numerous decisions issued by the Supreme Court of the Czech Republic. Eventually, provisions of the new Civil Code related to pre-contractual liability are highlighted and compared with international counterparts mentioned in the previous chapter.

Conclusions are drawn in Chapter Five; the paramount aim of the thesis has been reached and initial hypothesis has been expanded, thus we are able to present pre-contractual liability as living instrument in the Czech legal order mainly due to dynamically evolving case

law and general legal principles such as good faith and fair dealing, protection of legitimate expectations, and *neminem laedere* (general duty of care).