

# Variations under FIDIC contractual conditions and their applicability in the Czech legal order

## Abstract

The main aim of this thesis is to analyse the applicability of variations under FIDIC contractual conditions (especially regarding their modifications in the Red Book) in the Czech legal order, both from the point of view of private law and public procurement law. Based on this analysis, it should be ascertained whether variations as a *sui generis* contractual institute are validly applicable in the construction projects realized in the Czech Republic.

The thesis is divided into seven chapters, which are systematically structured from the general description of variations under FIDIC contractual conditions through the analysis of variations in Czech private law and public procurement law to the practical part with specific examples from the Czech legal environment.

The first and second chapters describe the institute of variation itself, which also reflects the differences and the specifics of each sample book. The main reasons for the need for variations and the three main ways of initiating variations, including their administration and approval processes, are also described in these chapters.

The third chapter introduces to claim as another specific contractual institute under FIDIC contractual conditions, which is described in particular in relation to variations. Apart from the general description of the claims, the thesis deals in more detail with their division and the process of their administration and approval. The fourth chapter discusses further contractual provisions of the FIDIC contractual conditions of reference relating to variations.

In the following fifth chapter, variations are assessed in the context of Czech private law. The variations are described in more detail as specific changes in contractual obligations that can occur without changing the contract itself. The problematic aspects related in particular to the variations ordered by the engineer

are analysed in detail, and sufficient space is also devoted to the comparison of the legal arrangement of the contract of work in relation to the contractual institute by variations.

Through the sixth chapter, variations are embedded in the context of national and European public procurement law. First, the different categories of changes in contractual obligations based on the Public Procurement Act are described in detail, and it is then assessed whether it is possible to administer individual types of variation through these categories of changes in contractual obligations. This chapter also analyses the disclosure obligations of contracting authorities related to variations institutes. At the end of the chapter, it is stated whether variations are applicable within the limits set by public procurement law.

The last seventh chapter deals with the practical aspects of the use of FIDIC contractual conditions in the Czech Republic as it describes the modification of the contractual basis of variations by state entities that use the FIDIC contractual conditions most often in their nationally funded construction projects.