Resumé

This diploma thesis provides a basic insight into the issue of extinction obligations. In the first part, the author focused on the principles of the law of obligations, definition of related terms, legal enshrining and, in general, the origin, change and termination of the obligation. Subsequently, the thesis deals in general with the extinction of obligations. Furthermore, the author focused on selected ways of some of the other manners of extinction of obligations. These institutes are analyzed in more detail – set-off, withdrawal from contract, termination of an obligation and subsequent impossibility of performance. For the sake of clarity in reading the texts, the individual institutes are prepared according to the same outline - general introduction, admissibility, realization, effects and the final subchapter. In this subchapter, the thesis deals with some specifics that can be mentioned in connection with the institute and also how the institutes are used in their interpretation and application in specific situations. The thesis highlights some of the pitfalls of application practice. In addition to outlining the problem, the author tries in some cases to find a solution or to evaluate the current situation and the development of the problem in the future.

Partial outcomes of this thesis include the effort to provide a way of interpreting the terms "uncertain" and "indeterminate" in connection with the institute of set-off. The author focuses on the interpretation and application of the provisions of the article 1987 paragraph 2 of the Civil Code. The first input is a general introduction to the institute of set-off. It also informs about another alternative way of interpreting and application the provisions. It draws on available case law, commentary literature and expert articles. The author concludes that the indeterminate legal terms "uncertain" and "indeterminate" can be separated both linguistically and legally. According to the author, their interpretation and application should also take into account the specific type of proceedings in which the set-off should take place (eg finding, execution). It considers that a more precise definition and separation of terms could bring simplification in interpretation and application. Furthermore, the author deals with the difference between positive and negative findings of "certainty" and "determination". It concludes that a positive finding is more important than a negative one in terms of effects. This passage can provide various aspects that can

contribute to clarifying and stabilizing the interpretation of the indeterminate legal terms mentioned.

The issue of so-called lacing contracts (art. 2000 of the Civil Code) is also dealt with in connection with the institute of termination of an obligation. The author concludes that there is no clear consensus on the interpretation of this provision in the professional community. It considers that some reserve and caution must be exercised in the application, as this provision significantly breaks the principle of *pacta sunt servanda*. On the other hand, this provision is very practical. Contracts should not aim to 'blindly follow' them, notwithstanding the circumstances. It considers it important that, in the case of long-term contracts, the parties have the possibility to have the undertaking reviewed by the court if they consider that the circumstances have changed to such an extent that the undertaking no longer serves the intended purpose. Of course, there will always be a risk of change in circumstances for contracts of more than 10 years or for an indefinite period. It considers that, although this provision has been used only sporadically so far, it is good that the Civil Code allows such a solution in the event of serious reasons or substantial changes in circumstances.

Furthermore, the author deals with the current opinions of the Supreme Court, which deal with withdrawal from the contract due to breach of the arrangement in a substantial way. On the basis of the case-law, it concludes, inter alia, that the breach will in principle be such conduct that makes it impossible to use the case for the purpose for which it is intended.

The author also deals with terms that appeared in the civil law before the effective Civil Code. The case-law on the institute of subsequent impossibility of performance provided an overview of some decisions over a period of more than 20 years. It was thus possible to draw some clear conclusions from these materials. It is apparent from a number of decisions that the extinction of an obligation for the consequent impossibility of performance must indeed be justified and occurs only after exhaustion of alternatives that allow the obligation to remain, thus representing a certain *ultima ratio*. First, it is always necessary to look for a solution through which the performance could be ensured differently. In the case of a contract for work, the contractor is even obliged to provide substitute performance if he is unable to continue to perform himself. The author mentions in the context of the institute of subsequent impossibility of performance also the so-called economic impossibility of performance. It considers that, given the

current situation, cases of economic impossibility may become more and more frequent and it is therefore necessary to look into this problem in the future.

The benefit and intention of the thesis is to provide a view from the point of view of the application practice of the courts, given the rich space that was devoted to the examination of case law and the conclusion of conclusions. Obviously, the issue of commitments is still a topical and key issue.

The current situation, when the world is crippled by a coronavirus pandemic, clearly shows that these circumstances translate into obligations, for example. into their changes or extinction. The author decided to include a chapter dealing with this issue above the original framework of her thesis. In addition to the Czech legislation, it also deals with the impact on obligations in Italy. The author draws both from the Italian legislation and from case law and other sources. This chapter deals in more detail with the concept of force majeure and the situation of change in circumstances that may cause a particularly gross disparity between the parties. It finds a number of similarities between the adjustments. The author also devotes space to practical options for dealing with changes in circumstances that may arise as a result of the COVID-19 pandemic. It concludes that the measures rather fulfill *vis maior* characteristics. It considers that the condition of unpredictability is relatively relative. The situation needs to be assessed on a case-by-case basis, taking into account the period at which the contract was made and looking for a causal link between it and the obligation. She also points out that both the Czech and Italian doctrines imply that if a debtor fails to fulfill an obligation because of a lack of finances, it is not a fact which leads to the extinction of the obligation due to the impossibility of performance.