

Mistake

Abstract

The final thesis discusses the issue of mistake in civil law. The aim is to map out in detail the background of the overly brief wording of the law, which is associated with a large number of interpretation problems. The main focus is on the means of inducing a mistake, the question of excusability and the importance of deceit and fraud in legal acts. The text is based on Czech and foreign scholarly literature and case law, especially of the Supreme Court.

In the introductory chapters, the wording of law is set in a broader perspective. First, key principles for the interpretation, as well as theories dealing with the issue of the conflict between expression and will, are presented. Subsequently, the historical genesis of the laws on mistake is presented, which is of considerable importance for the subsequent interpretation. One of the pillars of the work is a theoretical division of specific types of errors. Further ways of inducing error are discussed. With the help of historical, logical and systematic interpretation, a conclusion is made about the need to bridge the textual imperfection of the law. The specific nature of deceit is taken into account.

An excursion into foreign unification projects, which process the wording of provisions of mistake more precisely is important for the interpretation of the domestic regulation and *de lege ferenda* considerations. The chapter on excusability analyzes in detail the doctrinal and judicial foundations of this concept, which is not incorporated in the law. It is advocated to take greater account of current principles of law and to change the approach to excusability in the context of deceptive conduct in court practice.

In the last chapters, space is devoted to the relationship between mistake and related legal institutes, such as rights from defects, pre-contractual duty to inform and *lesio enormis*.

The following conclusions are key. The wording of legal provisions on mistake has a wider application framework than apparent from the brief text of the law. This is most salient in the question of inducing error, which must be extended so as to include situations of mere knowledge of the other party's error.

The definition of fraud is also important. In cases of its presence, it is argued for neglecting other factors which would otherwise constitute an obstacle for the person in mistake to invoke the consequences of the error. On these issues, the importance of current principles, in particular fairness, is emphasized. Fraud is also an important factor in the chapter on the excusability of error. In addition, arguments are also provided for resolving situations where the fault of the

parties is in the context of an error similar. From the conclusions arising from court practice, a methodological tool is created to assess the degree of excusability of the parties.