

Civil Procedure and Consumer

Abstract

This rigorous thesis deals with the topic of private law procedure in relation to the consumer and especially the exercise of his rights. The current state of legislation in this area is highly stratified and multilevel. In addition to the traditional possibility of claiming the individual rights through private litigation before a civil court, dispute resolution methods are also gaining prominence in the field of consumer law due to request for enhanced enforcement of highly harmonized substantive law, which should provide better access to justice and consumer rights also through effective access to the state authorities that would judge such disputes. In connection with a significant amendment to the Consumer Protection Act, specialized procedural protection of consumer rights was institutionalized through the introduction of so-called alternative dispute resolution methods, which are divided among several bodies having jurisdiction and competence in a particular dispute, either to make a binding decision or lead parties to reconciliation or conclusion of a private law agreement. In addition to this relatively new legal regulation of alternative dispute resolution for consumer disputes, the traditional method of dispute resolution in arbitration proceedings also occupies a place in the field of dispute resolution, mainly in business relations. However, with the latest amendment, the Czech legislator intervened in the area of dispute resolution through arbitration so significantly that it banned the power to resolve disputes between entrepreneurs and consumers by arbitration, apparently mainly due to the effects of developments in the consumer credit market issues. This is despite the fact that in neighboring countries, such as Germany and Austria, as well as in the United States, the legislation on arbitration, in which the consumer and the entrepreneur are parties in the procedure, is already established and, although containing a number of restrictions, is part of the relevant legal systems.

In connection with new globalization trends, the so-called class actions are also gaining prominence, in which the claims of several consumers having the same factual and legal basis would be resolved within one proceeding. These tendencies are gaining in importance in the Czech Republic when a draft law on collective proceedings has been submitted by the government, which is currently in the Chamber of Deputies in terms of the legislative process. In general, it can be assumed that trends in this area will continue, due to the tendencies of the European Union, in addition to the already relatively harmonized substantive law, to ensure an effective approach to its enforcement. However, procedural rules

are not limited to finding the rights in the proceeding, but also relate to its enforcement, namely through enforcing proceeding or insolvency proceeding. In addition to the Czech legislation, this thesis also touches on issues with an international element and also the effective regulation of arbitration proceedings in relation to consumers with foreign element. It can be also reasonably assumed that the current ban on arbitration proceeding in disputes with consumers can be overcome in the future and reintroduced in Czech law. In relation to new development trends, the thesis also considers the possible development not only in terms of the need to address some issues that arise now, but also considers the overall development of society, towards further globalization, digitization and robotics in terms of the challenges for law whose primary goal is to regulate relationships in society and maintain social homeostasis. Given the relatively turbulent times of recent years, it has become increasingly difficult and difficult for the law itself to keep up with relatively fast developments in various areas of society and the economy.

Klíčová slova:

Civil procedure, consumer, alternative dispute resolution