

Lease of an Apartment: Rights and Duties of the Lessee and Lessor

Abstract

The diploma thesis deals with the actual issue of the lease of an apartment, which is primarily regulated in the Act No. 89/2012 Coll., the Civil Code, as amended (hereinafter the “CC”), in the specific provisions on the lease of an apartment and the lease of a building (Sections 2235 to 2301). Secondly, the issue of the lease of an apartment is also regulated by other legal regulations - e.g. Act No. 67/2013 Coll., regulating certain issues concerning the providing of services associated with the use of the apartment and non-residential premises of an apartment house (the Services Act), or Government Regulation No. 308/2015 Coll., on the definition of the terms of routine maintenance and minor repairs related to the use of the apartment. The regulation of the cooperative apartment lease is then excluded from the Civil Code, when the legislator decided to include it in the Act No. 90/2012 Coll., on Commercial Companies and Cooperatives.

The subject of the diploma thesis is not to provide a detailed analysis of all specific provisions on the lease of an apartment and the lease of a building, but to give an overview of the rights and duties arising for lessees and lessors, in particular from the provisions of the Sections 2242 to 2278 of the CC. Particular emphasis is then placed on the analysis of problematic issues in theory and practice (such as the question of the statutory rate of interest on the security deposit). The thesis also offers a comparative view of selected issues of lease law by comparing selected provisions of the Civil Code with the legal regulations of lease of an apartment being in force in the Federal Republic of Germany.

Due to its scope, the thesis does not focus on the lease of a company apartment, a special purpose apartment and the lease of a cooperative apartment.

Systematically, the thesis is divided into three parts, which are further divided into chapters (and if need be subchapters).

The first part of the thesis is divided into chapters, which, after an introduction into the issue of the lease of an apartment, discuss the purpose, subject and parties of the lease of an apartment. The last chapter deals with the issue of the creation of the lease of an apartment, which is discussed in detail in the separate subchapters. Emphasis is then placed on the creation of the lease of an apartment on the basis of a contract, as the contract is one of the most frequent reasons for the creation of a lease.

The second part is the actual focus of the thesis. Systematically, this part is divided into thirteen chapters, some of which are further divided into subchapters. In the division into chapters, the sequence chosen by the legislator in the provisions of the Sections 2242 to 2278 of the CC has been respected. Thus, the first chapter deals with the delivery of the apartment to the lessee (Section 2242 and the following ones of the CC); the last chapter deals with the apartment sublease (Section 2274 and the following ones of the CC). The chapter dealing with rent and other payments is treated in greatest detail – namely due to the importance of this issue for the practical functioning of the lease relationship.

The last, third part of the thesis deals with the extinction of the lease of an apartment and related issues. This part deals both with the passage of the lease of an apartment and the inheritance of the right to rent an apartment (chapter one), further with the actual extinction of the lease of an apartment (chapter two), with an emphasis on the extinction of the lease of an apartment by notice, as this is undoubtedly the most important issue from the lessee's point of view.

Keywords: Lease of an apartment, Lessee, Lessor