

Boilerplate contracts made by an entrepreneur

Abstract

The diploma thesis thematically focuses on an issue of contracts of adhesion which are concluded by entrepreneur in the course of trade. Contracts of adhesion are characterised by a specific, adhesive, method of entering into contracts based on the principle of take it or leave it which relies on the fact that the basic terms of contract are determined by one of the contractual parties which results in reducing the options of the weaker contractual party to full acceptance of unilaterally determined basic terms of contract or to the rejection of the contract as a whole. The aim of this diploma thesis is the presentation of a comprehensive analysis of the legal institute of contracts of adhesion *de lege lata* which is completed by synthesis of the insights in question into relevant theoretical and practical conclusions, including considerations *de lege ferenda*. The legal institute of contracts of adhesion with regard to the aim of the diploma thesis is subjected to theoretical analysis from the point of view of historical development, from the point of view of definition of the thematically relevant legal concepts *de lege lata* which are entrepreneur, weaker entrepreneur, consumer or legal regimes of contractual relations, from the point of view of definition of contracts of adhesion *de lege lata* with a focus on primary and secondary definition of contracts of adhesion and from the point of view of content control of contractual arrangements, in terms of both formal control involving review of contractual clauses from perspectives of legibility, comprehensibility or unexpectedness and material control involving review of contractual clauses from perspectives of particularly unfair contract terms or content test. Moreover contracts of adhesion are subjected to differential and correlative analysis aimed at comparison to selected thematically relevant types of contracts which is completed by partial comparative conclusions accentuating the course of trade realised by entrepreneur. The diploma thesis also deals with an issue of admissibility of the term adhesion contracts as a synonym of legal concept of contracts of adhesion and with an issue of possibility of subsumption of public procurement contracts under the legal institute of contracts of adhesion.

Key words

Contracts of adhesion, weaker contractual party, unfair contract terms