

LAESIO ENORMIS

Abstract

This diploma thesis is focused on the institute of Laesio enormis, which has been returned to the Czech legal system after many years with the effect of the new Civil Code No. 89/2012 Coll. The importance of laesio enormis has been rising currently, when the market place is controlled by powerful commercial instruments and the prices are uncontrollably rising due to various external influences. Therefore this thesis is focused on the analysis of the institute, which is protecting the injured contracting party, and breaks through one of the basic principles of the civil contract law, such as the autonomy of the will.

The aim of this thesis was also to explain the origin of this institute and its development, that was necessary to observe the development of philosophical thinking in relation to the understanding of fair price, which is absolutely crucial in the application of the laesio enormis. For better understanding of the valid regulation of the institute in the Czech legal system, the diploma thesis analyzes the individual sources regulating this institute, which can be found mainly in the surrounding European countries.

It was also essential to define laesio enormis in the context of other institutes breaking the principle of the autonomy of the will, such as the protection of good manners, the protection of error in legal acting, and above all the protection against usury, and evaluate whether the mutual delimitation of these institutes in the current regulation is successful and beneficial or not.

Due to the fact that the period since the reintroducing of the laesio enormis is only few years old and practice of the courts is not varied enough in this issue, this thesis at the end contains a reflection on what ideal form should have had a court decision that cancels the contract and states the obligation to return everything to the original state. The diploma thesis also describes a transparent process by which the other party can supplement the loss, whereby the right of the injured party to cancel the contract disappears.

Key words: laesio enormis, civil law, autonomy of the will