

Thesis title: Contractly anticipated obligation changes of construction contract

Abstract

This thesis aims to provide a comprehensive evaluation of obligation changes in construction contracts for investors from both private and public sectors with regard to the decision-making activities of control and judicial bodies. Furthermore, its purpose is to determine the good practice of obligation changes in construction contracts.

The first chapter describes the general regulation of the obligation law, contract for work and special modifications to the construction contract. All of the above is regulated in the Civil Code. The next chapter deals with the regulation of public procurements where the development of current legislation is described. This legislation is based on the case law of the European Court of Justice, especially in the Pressetext judgment. Furthermore, the chapter addresses current opinions on obligation modifications to public procurement.

The thesis further describes individual change processes of commonly used model contractual standards - Red and Yellow Books issued by FIDIC international organizations. These mechanisms include variations - necessary changes to the work and value engineering that improve the work or are otherwise beneficial to the ordering party, based on the experience of the contractor. For these mechanisms, a detailed analysis of their material side is performed, and a procedural regulation is described while determining individual rights and obligations of the contracting parties to the obligation.

Concerning current practice, this theses also presents the most important methodological guidelines created to unify the procedure of investors across individual construction sectors for important contractual mechanisms such as the already mentioned variations and improvement suggestions. This methodological activity is then carried out by the State Fund for Transport Infrastructure (Státní fond dopravní infrastruktury) and the Czech Agency for Standardization (Česká agentura pro standardizaci), which is currently designing a domestic contractual standard within the BIM concept. The final part of this paper summarizes the existing knowledge about the current legal regulation of changes in obligations in construction contracts.

Key words: construction contract, obligation modification, variations