

Trade usages

Abstract

This thesis deals with trade usages in Czech law. The main focus of the work is the decisions of the highest court system, regional and high courts, and the general question of trade usages in Czech legal science.

The introduction defines the issue and points to the limits of the work, which are numerous, given the multidimensional nature of the problem under study and the relatively limited possibilities of legal science to respond adequately to all of them.

The first part of the thesis defines the notion of trade usages from the perspective of Czech law and international trade law, defines trade usages in relation to similar institutions and further develops the position of custom in the Czech legal system.

The second part discusses the issue of case law and its binding force – how the unifying function of the Supreme Court works, the binding force of the Constitutional Court's rulings, how the case law on trade practices works in the individual articles of the supreme court system, and the influence of the European Convention of Human Rights on the quality of judicial decision-making and the manner of publication and correct using of case law in general.

The third part discusses the history of trade usages in the Czech legal system, through the legal order of the Austrian monarchy (ABGB, General Commercial Code), the Czechoslovak Republic, to the Civil Code of 1964 and the Commercial Code and the current legal regulation, reflecting also on the current form of the Civil Code, which has abandoned most of the ideological intentions of the post-1950 legislation and has returned in some of its foundations to the previous legislation, while not omitting the significant role of European and international private law on the shape of the current Civil Code.

In the fourth part, selected decisions of the Czech court system are examined, with an approach to some of the legal rules that affect trade usages and how to work with them (e.g. how to prove the binding nature of trade usages, restrictions on their use when they are *contra laegem*, etc.). This part also describes common trends in a development of constant decisions and the conclusions that arise from them.

The final part summarises the information contained throughout the thesis, highlights the findings arising from the relevant case law and generally assesses the state of trade usages in the Czech legal system.