

Contractual penalty in consumer contracts

Abstract

The topic of rigorous work is the contractual penalty in consumer contracts, while this issue is very current, as it falls into the legal area of consumer protection, which belongs to the current most modern trends in private law. The aim of the thesis is to answer, in particular, what are the specifics of the use of the contractual penalty institute in consumer contracts, to analyze the issue of negotiating a contractual penalty in consumer contracts and its permissible amount. Furthermore, the author of the thesis will focus on the possibility of moderating an unreasonably high contractual penalty in consumer contracts and the possibility of negotiating a contractual penalty within the commercial terms of consumer contracts. Last but not least, the author of the thesis intends to analyze the issue of due date and limitation of the right to pay a contractual penalty.

The first chapter deals with the functions of the contractual penalty in consumer contracts and contains a brief analysis of individual terms that are central to this rigorous work. The second chapter is focused on the jurisprudence regarding the contractual penalty. The author of the thesis chose two areas, namely the possibility of conditional negotiation of the contractual penalty and the moderation of the contractual penalty and its admissibility in consumer contracts.

The author considers the third and fourth chapters of the work to be pivotal. The third chapter refers to the very negotiation of contractual penalties in consumer contracts. An essential part of the chapter is the requisites of the agreement on the contractual penalty, as well as the issue of maturity and the statute of limitations of the right to pay the contractual penalty. The fourth and last chapter is devoted to controversial issues related to the negotiation of a contractual penalty in consumer contracts, in particular the inadmissibility and invalidity of the negotiation of a contractual penalty. An essential topic is the certainty of contractual penalties in general and in consumer contracts, as well as the amount of contractual penalties and their possible limitations resulting from consumer protection legislation. At the end of the last chapter, the possibility of negotiating a contractual penalty in commercial terms in relation to consumer contracts is analyzed.

Keywords

Consumer, contractual penalty, commercial terms.