

Trade customs

Abstract

The subject of this thesis was to find out whether some trade customs have emerged between the participants of business relations in the Czech Republic since the advent of the market economy. If the following hypothesis is confirmed, the aim of this thesis was to identify specific trade customs and its effects on the legal relations of the participants in business relations. Thus, the author of this thesis had the ambition to make a comprehensive interpretation of trade customs, which he divided into three main parts.

The first part of this thesis is mainly devoted to the definition and application of trade customs according to the current and effective legislation, legal doctrine and case law, also taking into account some of the contractual practice of participants of business relations. The aim of this part of the thesis was thus to determine what is meant by trade customs in the legal sense as opposed to business practice in the broader sense and what effects trade customs have in legal relations.

The second part of the thesis builds on the previous interpretation and elaborates on the existing case law on trade customs. In fact, trade customs are most easily understood by the general and professional public through the work of the courts, which find both the law relating to trade customs and specific trade customs. The thesis thus focuses in this part on the identification of specific trade customs, whether or not proven by the courts, that apply generally or in certain sectors, and in addition to that also on the identification of procedural rules related to the assertion of trade customs in civil proceedings, but also taking into account the administrative justice system. The identified procedural rules are then demonstrated by means of selected court decisions. Finally, this part of the thesis also includes critical evaluation, recommendations and reflections in the context of the selected case law.

However, trade customs can also be found and interpreted in the context of other sources. Finally, beyond the above, the third part of the thesis is devoted to an interpretation concerning the organisations of selected business people. These can have a significant impact on the existence of trade customs as well as on their proof in court proceedings, as this thesis shows.

Key words: trade customs, business practice, case law