

10. SUMMARY

Thesis title: Withdrawal from a Contract

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discharge of obligations
Civil Code

The withdrawal from a contract represents one of the means by which the obligation can be discharged. This issue has become high current recently above all due to debate regarding the effects of the withdrawal from the real estate purchase contract in relation to the rights of third persons acquired in good faith. However, there are many other legal issues related to the right of withdrawal, which are controversial both in legal theory and judicial practise. Considering the upcoming recodification of the private law the time for analysis and critical evaluation of existing and proposed legislation on withdrawal from a contract could not be more suitable.

The aim of this thesis is to describe the withdrawal from a contract under the Civil Code as a unilateral legal act, which discharges the obligation with the effect *ex tunc*. This thesis is based on the conclusions of legal theory, on my personal opinions and also on the judicial decisions of courts of all instances, including the Supreme Court of the Czech Republic and the Constitutional Court of the Czech Republic.

The thesis is composed of seven main parts, each of them dealing with different aspects of withdrawal from a contract. Part two is introductory and focuses on the summary of the background of the issue. The general regulation of withdrawal, including its relationship to other relevant legal institutes, is analyzed in the third part of this thesis. Part four concentrates on the most recent issue associated with withdrawal from a contract, which led to the fundamental conflict between the Supreme Court of the Czech Republic and the Constitutional Court of the Czech Republic. This issue is essentially

a question of the effects of withdrawal from the purchase contract in relation to the property rights of third persons acquired in good faith in those cases, where the real property had been further transferred to a third party before the seller withdrew from the purchase contract.

Another area associated with the withdrawal under the Civil Code is the particular part, which deals with the various provisions of the Civil Code containing the right of either contracting party to withdraw from a contract and the issues associated with these provisions. This particular part is contained in part five of this thesis, whereas the separate chapter is focused on legal regulation of consumer contracts and consumer protection, whose importance has significantly increased in recent years, namely due to the activity developed by the European Community in this area.

Last but not least it is necessary to point out the considerations *de lege ferenda*, which account for a significant part of this thesis. These considerations are summarized in the sixth part and they are mainly linked to the proposed regulation of withdrawal from a contract in the new Civil Code, which is, with regard to almost final form of this regulation, quite logical.

Final conclusions, which summarize the whole issue and also express my point of view, are drawn in part seven.