

## **SUMMARY:**

Entrepreneur, business activity and enterprise are fundamental and very important terms of the commercial law. These terms are closely linked to each other.

The general source of the private regulation of this issue contains the Commercial Code (Act No. 513/1991 Coll.). These terms overreach with their content private law because the status of entrepreneurs and conditions for carrying on business activity are regulated by public law. Therefore these terms are also subject of public law. The general public regulation of this issue provides the Trade Licensing Act (Act No. 455/1991 Coll.)

An Entrepreneur is the central element of the personal scope of the commercial law. The Commercial Code deals with entrepreneurs in Part One generally, specific legal regulations of some of the entrepreneurs are contained in Part Two. The term entrepreneur is defined in section 2 which lists in subsection (2) those who are considered to be entrepreneurs under the Commercial Code. From this subsection we can specify general characteristics of entrepreneur. An entrepreneur can be an individual (a natural person) or a legal entity, domestic or foreign person. The main criterium which determines if a person is or is not an entrepreneur inhere in public law, not in private law, because in this case the determinant is, if the particular person has certain authorization which originates under the Public Law Acts, eventually if the person is recorded in the Commercial Register. We can define entrepreneur as an individual or a legal entity who is recorded in the Commercial Register or is engaged in business activity on the basis of an authorization listed in section 2 subsection (2) of the Commercial Code, eventually is a foreign person stated in section 23 of the Commercial Code.

The term business activity is also defined in section 2 of the Commercial Code. Subsection (1) of this provision lays down several characteristics which have to be present concurrently to qualify an activity as a business activity. As mentioned above, this term overreach private law because conditions which determine requirements under which an individual or a legal entity can be engaged in business activity are regulated by the public law acts. If a person concludes an act in law (transaction) without authorization for such business

activity, it doesn't have effect on nature or validity of this act in law, but the particular business activity is unauthorized, the person is liable for damage caused thereby and may be also liable under special statutory provisions, such as the Criminal Code, the Offences Act or the Trade Licensing Act.

Under the Commercial Code, an enterprise is regarded as an object of legal relations. This term is defined in section 5 of the Commercial Code where it is explicitly specified as a collective thing which is composed of tangible, personal and intangible components constituting a business activity. The definition does not mention obligations (debts) pertaining to an enterprise.