

Abstract

Liability for defective goods and its application

The purpose of my thesis is to analyse the legal institute “Liability for defective goods” and its application regulated by (Czech) Commercial Code. The text focuses on the questions of liability for defective goods according to the provisions regulating the contract of purchase. The reason for my research is the frequency of concluding such contracts and the frequency of litigation arising from these contracts based on the issues of liability for defective goods.

The thesis was processed with regard to relevant literature and legislation. The obtained conclusions are supplemented by relevant case law.

The thesis is composed of six chapters, each of them dealing with different aspects of regulation of liability for defective goods.

Chapter one presents a view of the legal theory on liability for defective goods and informs about elementary aspects of historical development of legislation.

Chapter two defines the concept of defects according to relevant Czech legislation. The chapter consists of three parts. Part one describes quantity defect, quality defect, cover defect, documents defect and delivery of different goods. Part two describes legal defects. Part three describes apparent defects and hidden defects.

Chapter three focuses on legal regulation liability for defective goods. The chapter consists of four parts. Part one describes the statutory liability for defective goods. Part two describes the guarantee liability for defective goods. Part three explores the relationship between the statutory liability for defective goods and the guarantee liability for defective goods. Part four looks at the relationship between the liability for defective goods and the liability for damage and the unjustified enrichment.

Chapter four explores claims from liability for defective goods. The chapter consists of two parts. Part one describes claims for serious breach of contract. Part two describes claims for non-serious breach of contract.

Chapter five examines regulation of assertion of claims from liability for defective goods. The chapter consists of two parts. Part one describes the mandatory goods inspection by the purchaser. Part two describes the mandatory notification of established defects by the purchaser.

Chapter six compares the regulation of liability for defective goods in the Commercial Code with the regulation of liability for defective goods in the Civil Code. The chapter consists of two parts. Part one describes main differences between the Commercial Code and the Civil Code. Part two describes the relationship between these codes.

The main aim of the thesis was to analyse the regulation of liability for defective goods with its issues in praxis. The conclusion I made at the end is that the contracting parties in many cases do not pay proper attention to the contractual stipulations and rely on legal stipulations only. However the regulation of the Commercial Code does not cover (and even can't) all possible situations. For this reason is the legislation highly nonmandatory so the contracting parties may individually adapt their relations of obligation to their needs. However contracting parties must be aware of this fact and must be more careful before entering into a contract.