

RESUME (anglická verze)

The subject of my dissertation is the legal issues of negotiation of entrepreneur. At the same time, it is not a case of complex processing of this matter. Thematically, it is divided into three main chapters, and thereafter conceptually into particular subchapters and parts.

From my point of view, the issues of the legal negotiation of the entrepreneur are still live. These issues are the subject not only of all series of expert discussions, but also the court's decision and legislative suggestions. Also despite that I believe that the answer to some affected questions is not united at the present time. My intention was not to analyse all still unclear and disputed points of the present-day legal form in this treatise, but, in general, deal with the concept of entrepreneur's legal negotiation and to evaluate both present and future legal form from various points of view, as well as of some legal aspects connected with these legal institute.

The chapter I deals with the issues of legal form of the entrepreneur's negotiation. I tried to interpose the legal form generally, with regard to the general legal form in civil right and also in commercial law. The subject of this chapter is not only the interpretation of important terms, but also the legal analysis of entrepreneur's personal negotiation, legal form of representation, its form, similarities in practice and so on. My effort was to interpose the complex interpretation of the present legal form of entrepreneurs' negotiation in the stated chapter, and so I hope that I contribute to the interpretation problems arising in practice every day.

At first, I focused on personal negotiation of entrepreneur in detail, of both natural and legal persons. When the most of my attention is paid to personal negotiation of legal persons, i.e. statutory bodies. How I occupied myself in this dissertation in detail, so it is essential not to confuse the determination of the way of the negotiation of statutory body stated in the Commercial Register, with the restrictions of this negotiation from the statutes or social contract. The main reason is the inefficiency of this restriction against the third persons. It should be underlined, that it is a case of

only an internal matter of society. However, in a simplified way, it can be noted that if it comes to the breaking of negotiations, the legal act is applicable and it obliges the company.

Chapter II focuses on the analysis of the individual courts decisions, whose subject is the issue of entrepreneur's negotiation. In practice, I daily clash with the different interpretations of courts, which supplement the gaps in the law and help us, "users" of the law, to explain the unclear terms arising within the business activity. However, the interpretation of this judicature is not united in all conflict situations.

And this part will be further divided to the individual subchapters, in which, at first, I will try to analyze the judicial disputes relating to the entrepreneurs' negotiations (natural and legal persons) and, subsequently, I then perform the analysis of judicial decisions, which solves the specific partial conflicts arising in practice, and that both in legal and contractual representation of entrepreneurs.

In the conclusion of chapter 3, I point out the future legal form, which represents a major breakthrough in the whole area of the law already only by its concept and division. At last, the future legal form enables to eliminate in particular the existing legal dualism of civil and commercially-legal obligation law, which causes a number of problems in practice. Even if some critics of future forms object that the new laws do not completely eliminate the existing legal dualism, when the new legal form leaves the labor law aside.

However, I do not agree with this criticism, it is necessary to take into consideration, that the area of labor law is quite detailed processed by relatively new law from the year 2006 and there is currently no reason to change the legal form, to incorporate and so on. I am firmly standing by the new legal form, which I hope eliminates many uncertainties; at least it minimizes some still interpretative inconsistencies arising in practice.

Doc. JUDr. Eliáš states that the proposal of the new civil code and the law on concession contracts and concession proceedings returns to the historical legal concepts, which will be in particular

unintelligible for the whole public, and maybe even for the most lawyers, and they will also maybe seem absurd. Currently, it comes to the situation, when the several dozens years usual systems will be not only differently defined, but it will come to their different interpretations, terminology changes, etc.

Following the above stated fact, in my opinion, it comes to change in the new laws, or more precisely, to shifts in the terminology of individual legal institutes and terms of the so far regulated in the current laws. In accordance with my opinion, the legal form provides clearer answer to the questions, which, in are not solved in the current legal form. From the new civil code e.g. results that the authorized representative is not qualified to transfer the procuration to someone else or grant the further procuration, further, the new civil code supplements that the authorised representative performs the procuration with the care of regular economist. The basis for the assessment of liability of the authorized representative for negotiations is quite certainly determined, which he performed under the name of entrepreneur. At the same time, the new civil code eliminates the certain discrepancies between the special and municipal provisions of contractual representation, when the existing legal form subsumed some provisions under representation of the full power, whereas it is completely evident from the legal form, that it is the case of provision generally related to the representation. In the final case, I acknowledge that the new civil code eliminates thereafter the already inappropriate naming in head three of civil code named of "Representation on the basis of full power."

However, I stand for the view, that during the preparation of these new laws, the current judicature should be taken into account, and in particular, the disputed issue, which causes the interpretative problems in daily practice. The laws according to my view on the multiple places contain the ambiguous interpretation, use the vague terms and concepts, which, according to my opinion, will from now on cause the interpretation problems and, according to my opinion, create relatively broad space for judicial completion of rights.

The new civil code quite certainly strengthens the principle of autonomy of will, which, how we stated in the text of my work, prefers as opposed to the parity basis of parties. The new civil code tries to formulate the standards nonmandatorily, according to my opinion, it is trying to avoid the disproportionate, and often binding cogency.

The new legal form provides the protection of the weaker contractual party. This manifests itself also, for example, in the provisions about adhesive contracts.

However, the question now is how the other areas of the law will adapt to the new legal form. The new civil code introduces new concepts and definitions, and replaces them by the original; however, many public-law regulations will from now on continue to use already actually the concepts exceeded by new legal form. I suppose that so a new code will necessarily cause another wave of 'legislative changes'. At the same time, the law assumes the issue of the quantity of implementing regulations, I am not completely sure, whether the lawmakers will be able all this area codify on the efficiency date of the new civil code and the new commercial code.

At the present time, however, it is necessary to evaluate new laws prematurely. Some of the issues, which are not part of the new civil code or the new commercial code, may be clarified in the future in the other upcoming legal regulations, whose issue is assumed by the new legal regulation. In view of the fact that the content of the "register law" is not known for now, however, the receipt of the new civil code expects that we will see how sure, in detail, and certainly the legal form in all its complexity, will regulate the relationship, which are the subject of its modification.