

## **Abstract**

The purpose of this rigorous thesis is to deal with the preparatory institute of private contractual law, *pactum de contrahendo*, under the influence of a qualified change of circumstances. This institute passed through to the contemporary legislative conception long progress, currently in the Czech Republic it is simultaneously regulated into two effective codes and in connection with recent re-codification of the Czech private law, the explicit regulation is also contained in the new Czech Civil Code.

The thesis focuses on the preliminary agreement being concluded according to the effective Czech Civil Code, on its purpose, utilization and function. The thesis also characterises its subjects, subject-matter, content and the process between entering into the preliminary agreement and the future agreement. The thesis deals in detail with the extinguishment of obligation deriving from under the influence of changes in circumstances. In several cases the thesis provides alternative approaches to a particular issue, presents judicial opinions of legal experts and pursues case law. The thesis also describes the development of regulation of agreement to make contracts in the context of Czech law within the range, which was appropriate to the subject, the thesis refers to similar legal institutes and compares current parallel regulation of preliminary agreements among themselves and with newly adopted regulation with the aim to find advantages and disadvantages of particular regulation. For further understanding of problems of instability of objective circumstances, the thesis defines circumstances and their changes, briefly produces its development and for completeness offers broader insight on topic change in content and extinguishment of obligation under the influence of development of objective facts.

Besides the prologue and epilogue, the thesis is divided into twelve chapters with each chapter deals with a particular issue.

The prologue presents the thesis's matter and structure.

Chapter One characterises the preliminary agreement and the change of circumstances. It is subdivided into eleven subchapters. Subchapter One offers the interpretation of the obligation concept. Subchapter Two defines the concept of the preliminary agreement. Subchapter Three is called Circumstances and Their Changes. Subchapter Four consists of five paragraphs and refers to fundamental rules of private law. Subchapter Five explains the purpose of the preliminary agreement. Subchapter Six takes an interest in the utilization of the preliminary agreement. Subchapter Seven illustrates the

function of the preliminary agreement. Subchapter Eight overviews the terms used in connection with the preliminary agreement. Subchapter Nine refers to similar legal institutes. Subchapter Ten, in two paragraphs, distinguishes consequences and the nature of influential changes of circumstance. Subchapter Eleven is devoted to the impossibility of performance.

Chapter Two consists of six subchapters summarizing the main theoretical conceptions and starting points of a change of circumstances on the duration of an obligation.

Chapter Three deals with the development of a preliminary agreement institute. It is subdivided into two subchapters. Subchapter One describes the development of the preliminary agreement institute from its roots to current conception. Subchapter Two consists of nine paragraphs and deals with individual acts in the last two hundred years of legislative history in our area out of consideration for preliminary agreement.

Chapter Four argues for significance of explicit legal regulation of a preliminary agreement.

Chapter Five describes, in three subchapters, the historical development of changes in circumstances during the duration of an obligation.

Chapter Six is devoted to present legislation of influence of a change of circumstances on duration of an obligation. It consist of five subchapters and each of them represents one law.

Chapter Seven is divided into two subchapters. Subchapter One defines the relationship between Czech Civil Code and Czech Commercial Code. Subchapter Two circumscribes the extent of legal regulation of the Czech Civil Code and the Czech Commercial Code.

Chapter Eight presents the substance of the whole thesis. It analyzes legal regulation of preliminary agreement in the effective Czech Civil Code. It is divided into eight subchapters. Subchapter One refers to parties in preliminary agreement and consists of six paragraphs. Subchapter Two describes the subject- matter of the preliminary agreement. Subchapter Three characterises the content of preliminary agreement and is subdivided into three paragraphs. Subchapter Four refers to the form of preliminary agreement. Subchapter Five relates to the realization of contractual obligation to conclude the future agreement. Subchapter Six considers the breach of contractual obligation to enter into the future agreement. Subchapter Seven is concerned with the substitution of intention expressed of the required party by judicial decree. Subchapter Eight concentrates on the termination of contractual obligation to conclude the future agreement and is

subdivided into two paragraphs, of which the first deals with the *clausula rebus sic stantibus*.

Chapter Nine is divided into seven subchapters which compare regulations of preliminary agreements being concluded pursuant to effective Czech Civil Code and Czech Commercial Code.

Chapter Ten refers to the new Czech Civil Code. It consists of six subchapters. Subchapter One characterises new regulation as a whole. Subchapter Two analyzes new regulation of preliminary agreement and it is divided into six paragraphs. Subchapter Three compares the new regulation of preliminary agreement to effective regulations of preliminary agreements, which is going to replace. Subchapter Four is devoted to issues of changes of circumstances generally and is divided into nine paragraphs. Subchapter Five is called Subsequently Impossibility of Performance. Subchapter Six deals with disproportional shortening.

Chapter Eleven aims to give an overview on the statutory framework of change of circumstances in international and European criterion, it is divided into five subchapters and each of them represents one document.

Chapter Twelve, in four subchapters, compares views of changes in circumstances and of the contract on the future contract in European countries.

The epilogue briefly resumes the subject of the thesis.