

Change of circumstances and its effect on a duration of an obligation

In particular cases, an unexpected supervening event may substantially affect original equilibrium of a contract, or make the performance for one of the parties much more burdensome, so that it would be greatly unjust to hold the parties to their obligations. In such situations, when the performance of one of the parties has become much more onerous, a conflict may rise between the classical principles of contractual freedom, sanctity of the contract, certainty of the law and *pacta sunt servanda*, on the one hand, and principle of contractual fairness, equity and good faith on the other. *Pacta sunt servanda*, principle accepted by most of developed legal systems, determines that obligations which are validly concluded, must be fulfilled, parties are bound by their agreement. In case of change of circumstances, this may lead to situations, when it would be unjust to hold the debtor to the obligation. This makes the topic of the thesis very controversial and polemic.

The topic of this thesis is a change of circumstances and its impact on an existing obligation. The aim of the thesis is to focus and describe relevant legal doctrines, institutes, and possible solutions of the problem. Another purpose is to analyze different legislations and their approaches to the problem, especially approach of the new Czech civil code.

Thesis is divided into five chapters. After first chapter, which is introductory, chapter two defines terminology, main doctrines and legal institutes related to the subject of the thesis.

Chapter three concentrates on Czech legal history, relevant Czech legislation and legal doctrine, especially it focuses on Czechoslovak case law and the doctrine of economic impossibility in period after World War I, and the hardship institute and other relevant provisions in the new Czech civil code. It points out possible problems resulting from application of the new rule.

Chapter four contains comparative analysis of the approach to problems of unexpected circumstances in French and German legal systems as well as most important international non-legislative codifications, such as UNIDROIT Principles, PECL or DCFR.

Conclusions are drawn in chapter five.