

Abstract

Consumer Contracts Focusing on Sales Contract – Comparison of Old and New Legislation

Consumer contracts as contracts concluded with consumer who is the weaker party make integral part of our everyday life. Although we usually consider consumer protection an area of contractual law, it is a category with an overlap into commercial, european, criminal and administrative law. Consumer law which is strongly affected by EU legislation stands on the border between private and public law. Practical aspects of consumer law, however, do not in any way exclude its main purpose – seeking justice, i.e. balancing equality on one side and freedom on the other side. This branch of law is even more topical nowadays as we are exposed to advertising anywhere. Moreover we are experiencing financial crisis at the moment when most of people are suffering from lack of money which sharply contrasts with insufficient financial knowledge of Czech population. Legislation changes slowly and does not correspond to the development of society. Reality is then quite different to the way we know it from textbooks.

The New Civil Code that brings many changes not only in consumer law was adopted in 2012. It provoked numberless discussions both between lawyers and public. The importance of the code was overshadowed by media shortcut and ideological construction. The old legislation was presented as a socialist heritage that we have to get rid of. The reform of private legislation has become a political matter.

Not only the lawyers, but also the consumers will have to deal with ambiguous nature of the New Civil Code. Concentration of the civil law materia in a single act and its systematic nature is in conflict with casuistic and technicist disposition of the code.

Only the practice will show, whether the experts' objections were well-founded, or not. It also depends on the way we will carry in the effect the provisions of the code. Both consumers and businessmen should proceed in a similar way as in the past, i.e. act intuitively in accordance with law and morality in ordinary cases, whereas in more difficult situations ask a lawyer for help.

The aim of my diploma thesis is to compare position of a consumer according to old and new legislation and to analyze current problems of consumer law pursuant to examples from practice.

After the introduction, the second chapter focuses on the sales contract from the perspective of the Civil Code. It consists of five subsections: definition of basic concepts, sales contract and liability for defects, warranty, distance contracts and contracts outside business premises.

Sales contract which forms the core of my thesis is also subject of the third chapter, but this time in the context of the New Civil Code. Subsections of the third chapter are similar to those of the previous chapter.

Although the legal field of my diploma thesis is substantive civil law, I decided to outline briefly procedural aspects of consumer law. In the fourth chapter the attention is therefore given to the arbitration related to consumer contracts.