

Abstract

This Master's Thesis deals with the application of the concept of *lex mercatoria* in process of contracting process and in the dispute resolution, particularly in international commercial arbitration. The first chapter briefly describes the historical development of *lex mercatoria* and examines in detail the circumstances of the establishment of modern *lex mercatoria*.

Further, the Thesis describes the general methods of regulation of the private relations with an international element. In connection with the use of *lex mercatoria* in the process of contracting the specific attention is given to the choice of applicable law by reference to certain rules of *lex mercatoria*. The criticism of such choice-of-law method is analysed, as well as its justification and also the requirements for the validity of such choice-of-law method.

The second half of the Thesis is dedicated to a particular formalized rules of *lex mercatoria*, as well as to their legal grounds in Czech law, and also to some legislative changes in the Czech Republic after January 1, 2014, relevant to the *lex mercatoria*.

The final chapter addresses the practical application of *lex mercatoria* in the international commercial arbitration. The chapter begins with a brief and general introduction to the international commercial arbitration. Following subsections describe the history of the application of the *lex mercatoria* in international commercial arbitration, its critics, as well as the analysis of the criticism by the author of this Thesis. In connection with the practical application of *lex mercatoria* in international commercial arbitration the examples of decisions are given, in which the *lex mercatoria* was applied, especially arbitral awards of the International Chamber of Commerce in Paris.

This Thesis can be divided into two parts. The first part, in which the author tries to address in particular the usage of the *lex mercatoria* in international contracts and specifically deals with the possibility to choose the applicable law by reference to the *lex mercatoria*. And the second part, which is dedicated mainly to the application of the *lex mercatoria* in the resolution of disputes arising out of the international commercial relations. In both cases, the critical opinions of different legal experts are listed, which criticise the use of *lex mercatoria*, and/or doubt the existence of *lex mercatoria* as such and are often heard in the publications, as well as the most famous arguments advocating the *lex mercatoria*. Both sides of arguments are then commented with the opinion and analysis of the author of this Thesis.