

Culpa in Contrahendo

Resumé

The aim of this degree work is to introduce the institute of pre-contractual liability and its practical application. The work focuses on the position of this institute in the Czech legislation, its classification in the system of laws before the recodification of civil law, and its express regulation in Act No. 89/2012 Coll., Civil Code. Much attention is devoted to rulings of the Supreme Court of the Czech Republic and its approach to the application of pre-contractual liability in specific cases.

The degree work is divided into seven chapters. The first chapter defines the term ‘Culpa in contrahendo’, describes its origin in the work of a German jurist of genius, Rudolf von Jhering, and outlines the origin of the institute in Roman law. In this chapter is also a description of the first case of pre-contractual liability, ‘Linoleumfall’, which was resolved by the Imperial Court. The chapter also contains an overview of instances of pre-contractual liability embodied in foreign judicial codes.

The second chapter describes the regulation of pre-contractual liability in the Czech body of laws before the recodification of civil law with illustrations of individual facts in issue formerly contained in Act No. 40/1964 Coll., Civil Code, and Act No. 513/1991 Coll., Commercial Code.

The third chapter describes in detail decisions of the Supreme Court of the Czech Republic that had decisive influence on the interpretation of the individual pre-contractual liability provisions, with a description of judicial acts that have an impact on the current view of the institute, in particular in the area of damage compensation.

The fourth chapter focuses on individual facts in issue involving pre-contractual liability in positive law, in Act No. 89/2012 Coll., Civil Code. The provisions of Section 1728 – 1730 and Section 579 are construed in detail, as well as their application and damage compensation in the event of their violation.

The fifth chapter examines pre-contractual liability in the practice of business companies, presenting two instruments inspired by pre-contractual liability, ‘Letter of Intent’ and ‘Non-Disclosure Agreement’.

The sixth chapter introduces the regulation of pre-contractual liability in selected bodies of law. The content is the regulation of the institute in Austria and Germany.

The conclusions of this degree work are summed up in the last chapter. Pre-contractual liability is a very dynamic institute and its perception is sure to shift in the future in line with changes in society's culture. Its bedrock, which consists in protection of good faith and honest business relations, should however remain unalterable.