

ABSTRACT

CHVÁTALOVÁ, Daniela: Contract of Sale in Private Law. [Dissertation thesis]. Charles University. Faculty of Law; Department of Civil Law. Tutor: prof. JUDr. Jan Dvořák, CSc., Head of Department of Civil Law, Vice-Dean for the Doctoral Study Programme and Rigorosum Procedure. Level of professional qualification: Ph.D., Praha: PF UK, 2015.

Key words: Civil Code No. 40/1964 Sb. Commercial Code No. 53/1991 Sb. Civil Code No. 89/2012 Sb. Principles of civil law. Purchase. Dual regulation. Precontracting negotiations. Offer and acceptance of the offer. Contract of sale. Purchase of personal property. Purchase of real property. Subject of the contract. Superficies solo cedit. Construction is a part of the land. Hardship clause. Purchase price and manner for determining the purchase price. Commercial terms and conditions. Decrease in a purchase price. Unreasonable decrease in the purchase price Laesio enormis. Price clause. Delivery of goods. Seller's delay in delivery of goods. Transfer of title. Rights in case of defective performance. Quality, quantity, type, and package. Rebus sic stantibus clause. Contractual penalty. Cancellation of a contract of sale. Sale of a plant. Advance payment and retainer. Supranational projects. Draft Common Frame of Reference (DCFR). Principles of European Contract Law (PECL). European Contract Code (ECC). Common Core of European Private Law. Vienna Convention on International Sale of Goods (CISG). UNIDROIT principles. Sale of Goods Act (SOGA). French Civil Code (Code Civil, CC). German Civil Code (BGB). Common European Sales Law (CESL). Rights in case of defective performance. Transfer of risk of damage. Sale by self-help. Collateral covenants in contracts of sale. Reservation of property. Option to buy. Reservation of re-purchase. Reservation of resale. Contracts of sale in consumer law. Sale of goods in a shop. Distant sale contracts. Contracts made out of points of sale. Precontracting duty to provide information. Quality warranty. Consumer's rights and obligations. Consumer's rights in case of faulty performance. Seller's obligation with respect to public disclosures made by the others.

The work focuses on institute of a contract of sale in both the Czech and European contexts. A contract of sale ranks among most frequent institutes in the law science and is most frequently used in practice between individuals, between businesses as well as between a business and consumer, this relation being discussed so often now. Until 2014, the contract of sale was governed by two codes: Civil Code and Commercial Code. Parallel co-existence of the Civil Code and Commercial Code resulted in specific situations often in problems in interpretation. Such incompleteness affected, logically, the case law. The objective of the dissertation work is to analyse in detail the institutes of the contracts of sale in the Czech body of laws, including the institute of a contract of sale signed by and between the entrepreneur and consumer. The work also compares legal regulation of contracts of sale in the Czech legal order and in other bodies of law, in particular, in laws of the European Union - namely, the English, French and German laws. In the context of current legal trends and general Europeisation of private law, a particular attention should be paid to the analysis of supranational projects from circles of major European academics. Furthermore, the contracts of sale are analysed here in terms of consumer relationships which comprises the sale of goods in a shop. This is a special case of a contract of sale which has been developing rather hectically and has become a specific legal topic.