

## **Abstract**

### Commercial Agency Contract

The subject of this thesis is the commercial agency contract, as regulated by Sections 2483 to 2520 of Act No 89/2012, the Civil Code, as amended, giving businesses the opportunity not only to net new customers, but also to raise general awareness of their merchandise or services. Under a commercial agency contract, a commercial agent – as an independent business entity – undertakes to engage long term in activities for the other party (the principal) aimed at the sealing of a certain type of deal by the principal or at negotiating deals in the name and on behalf of the principal. Under a commercial agency contract, the principal, for its part, agrees to pay the commercial agent commission for the activities carried out. Against this background, a commercial agency contract gives a business the opportunity to make use of a third party who, unlike an employee, is autonomous yet works with the business and acts in its interests. This thesis intends to deliver a lucid analysis and description of a commercial agency contract from the perspective of current legislation set out in the Civil Code, the enactment of which endowed the concept of commercial agency (compared to the previous provisions on commercial agency set out in Sections 652 to 672a of Act No 513/1991, the Commercial Code, as amended) in particular with the addition of stylistic and systematic modifications and clarifications in order to achieve full harmonisation with Council Directive 86/653/EEC of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents.

The thesis is broken down into seven chapters. It starts by determining the general characteristics of a commercial agency contract and its fundamental particulars, including the features of the relevant territory and the nature of commercial agency legislation. The second chapter discusses both forms of commercial agency distinguished by the Civil Code on the basis of territory, i.e. exclusive and non-exclusive commercial agency. The third chapter dwells on the rights and obligations of both parties to a commercial agency contract, namely the principal and the commercial agent. The fourth chapter is given over to the concept of commission as the commercial

agent's financial remuneration for activities carried out on behalf of the principal. The fifth chapter analyses the execution of a commercial agency contract for a definite or indefinite period, including the conversion of a contract concluded for a definite period into a commercial agency contract for an indefinite period. This chapter also describes and analyses notice of termination of commercial agency, the duration of the notice period, notice-related issues in those cases where the sales volume stemming from an agreement on exclusive commercial agency has been insufficient, and notice of termination of commercial agency served with immediate effect in those cases where exclusivity is breached by either the commercial agent or the principal. The sixth chapter centres on special remuneration as compensation upon termination of commercial agency for the fact that the commercial agent, over the duration of commercial agency, has recruited new customers for the principal or substantially developed sales with existing customers and, following termination of commercial agency, will no longer receive commission for them. The final chapter of this thesis discusses the concept of the competition clause, especially those conditions in which it can be applied. I close by summing up the observations I made in the processing of this theme, including an evaluation of existing legislation on commercial agency in the Civil Code and proposals of incremental changes to the relevant provisions.

## **Keywords**

Commercial agent

Commercial agency

Commercial agency contract

Exclusive commercial agency

Non-exclusive commercial agency