

Abstract

The protection of the weaker party in private law

The topic of the thesis is "The protection of the weaker party in private law". Protection of the weaker is one of the key principles of the current civil code and one of the fundamental principles on which private law is based. With the efficiency of the new civil code, the principle of protection of the weaker party is reflected in a variety of legal institutions and rules. This work aims to define the meaning and purpose of the principle of protection of the weaker party in private law, its position in the hierarchy of law and to analyze its manifestation in the context of each of the rules and institutions enshrined in the civil code.

Due to the fact that in contemporary society it is quite common for the parties to enter into the contractual relationship in the de facto unequal position, it is essential to respond strongly than ever before to this situation and to correct this imbalance with the relevant rights and resources called "the protection of the weaker party".

The intention of this work is to evaluate the current level of protection of the weaker party in private law, to compare the existing level protection with the previous one, to unveil any deficiencies, theoretical and practical problems in the adaptation of the individual institutes of protection of weaker party and to initiate the appropriate remedy for the future.

What are the core values, principles and policies which new civil code is built on? Does the legislative approach to the application of these policies incline to positivism or rather to natural law? Who is the weaker party? Is there a need to protect the weaker party and why? Is the adjustment in the law No. 89/2012 Coll. indeed more protectionist than in the previous civil code? Is the current level of protection of the weaker party sufficient? What are the weaknesses of the legal regulation of the protection of the weaker party in the new civil code? May the protection of the weaker party be misused? This thesis tries to find answers to all of these and many other relevant questions.

With the regard to the complexity of the topic, it was not possible to analyze all the problems relating to the protection of the weaker party in private law. For example the overall concept of consumer protection legislation, including the new consumer loans, as well as the protection of employees, remains completely outside the attention of the author.

At the beginning of the thesis the Foundation and "building the pillars" of the Civil Code No. 89/2012 Coll. are discussed. It is followed by the definition of the basic principles of law

and the principles of the protection of the weaker party in the relation to the core the principle of private law-the principle of autonomy of the will, and the principle of equality.

Individual rules for the protection of weaker parties are introduced (in the general or the liability section of the civil code) with the focus on the abuse of economic dependence, usury, disproportionate shortening, contracts of adhesion, the protection of weaker parties in the context of limitation period, etc.

In the next part of the work the special protection provided to the weaker parties such as minors, persons with mental disorders and tenants, is analyzed. Each chapter is closed by a summary, in which the author brings a critical evaluation of the adopted legislation.