

Summary of the dissertation thesis

Europeanisation of the Czech legal regulation of consumer protection

Primary purpose of the dissertation thesis is to demonstrate the process of europeanisation of national legal orders on example of a more and more intensive harmonisation of Czech law on consumer protection due to requirements of European Union law. As an initial point there is an assumption that the europeanisation of consumer law can be understood as an example of a proceeding vertical integration on the basis of an unprecedented project of the European Community, resp. Union. The integration, expressed in an autonomous and more and more important legal order of European law was primarily aimed solely at economic questions and cooperation on the basis of a common (internal) market, but through gradual progress it has penetrated into many sectors only more or less related.

As one of sectors belonging to this "integration of a higher degree", there is europeanisation of Civil law that expresses itself extraordinary strong in legal aspects of consumer protection. There are analysed the respective regulations in Czech law, together with requirements of European law. If convenient, there are references to corresponding regulations of German law, incl. problem solving through German case law and legal doctrine.

The author starts up from the assumption that regarding to the current degree of consumer law europeanisation it cannot be spoken of any systematic harmonisation or even unification of Civil law of the Member states. It concerns so far purpose-oriented subareas and institutes of Civil law, especially if there exist special interests on legally protected values (consumer protection, prohibition of discrimination etc.), regularly connected with a harmonic disestablishment of internal market barriers in order to evolve benefits of four Basic Freedoms across Member states. Concurrently it is necessary that the approximation of law is, with respect to different legal traditions, regulations and interests of Member states, in fact possible and politically feasible.

As introduction there is a general overview of the matter, including a brief overview of essential europeanised areas and institutes of Czech Civil law as well as of the European legal frame. There is particular attention put on instruments and forms of Union law europeanisation action towards domestic laws on consumer protection. It concerns beside the Primary law sources regularly the directives as much more

corresponding to harmonisation purposes in this area than regulations. There are analysed approved measures as well as consequences of a defective or insufficient implementation into national law. An outstanding role plays adjudication of the European Court of Justice. To enable to evaluate and work with it correctly, there is a brief overview of essential procedures and generally applicable structural principles of European law that the Court of Justice has deduced.

In further chapter of the dissertation thesis there are step by step analysed the special sorts of consumer contracts that have been laid down into the chapter five of the first part – regulations of § 51a et seq. of the Czech Civil Code: generally inadmissible unfair terms in consumer contracts, consumer contracts regarding distance selling included special provisions regarding financial services, doorstep selling and timeshare contracts.

Subsequently there is examined an influence of European law on selected sorts of civil law contracts. It is anyway to be stated that the harmonisation of this sector is in so far fragmentary and of significant impact solely on a few contract categories. Due to circumstances of the europeanisation there are harmonised only selected subcomponents of contract regulation, whereas other parts stay under control of national legislator. This way of europeanisation is typical for the special provisions regarding the sale of consumer goods under § 612 et seq. of the Czech Civil Code. The second approach is determined by a complex harmonisation of several, generally rather marginal contract categories, especially tourist travel contract and consumer credit contract.

Afterwards there is treated a special regulation of producer's liability for damage caused by the defectiveness of a product. It has been stipulated in special code Nr. 85/1998 Coll. and constitutes a special sort of damage liability outside general provisions of § 420 et seq. of the Czech Civil Code. Finally there are introduced regulation of respective institutes and questions in the draft Civil Code, possibilities of choice of law in consumer contracts, including implementation deficits in Czech law, and current phase of efforts to set a European Code on Civil law.

Author of this dissertation thesis sets its aim in thorough analysis of respective questions from the jurisprudential point of view as well as in case law of supreme Czech and European Courts of Justice, in order to define the position and role of europeanisation of Czech consumer law. Beside the doctrinal considerations there is

emphasis on legal practice-oriented explanations, aimed at many interpretation and application problems, especially with references to contradictions of the Czech regulation and European requirements, focusing on proposals of – in opinion of the author – the most suitable solution.