

Summary

The present thesis analyses legal regulation of capital construction in the Czech Republic. It defines the term of capital construction as a legal, economic and technical activity involving comprehensive development and launching of investment units, putting it in the context of the current legal regulation of capital construction, included primarily in Sections 536 through 565 of the Commercial Code governing contracts for work. The thesis outlines the history of legal regulation, dealing with capital investment regulation in the then Economic Code, which was very detailed and of relatively good quality, but a product of its time and – compared to the current regulation – very imperative, denying the principle of an autonomous will of the contracting parties. The thesis mentions the then understanding of the contract for work, which – contrary to the present situation – did not exist as a single contract type but included a number of particular contract types. Differentiation between two stages of capital construction (preparation of capital construction and execution of capital construction) and the specific performance which was agreed used to be crucial for the choice and application of the specific type of contract. The thesis describes the position of the contract for work as a contract type within the current legal regulation, noticing the duality of legal regulation in the Civil Code and the Commercial Code. The contract for work in the Civil Code is only mentioned in passing as it is rather insignificant for capital construction. The thesis analyses current legal regulation of the work for contract in the Commercial Code; the applied classification has been chosen in view of practical usage and occurrence of the described contractual provisions in contracts for work in the area of capital construction in practical life. Therefore, the thesis also deals with legal concepts and contractual provisions which are not systematically included in the contract for work but are used in contracts for work in practical life, including payment terms, contractual penalties, compensation for damage, securities and bank guarantees, force majeure, insurance, applicable law and jurisdiction, health and safety at work, construction site, assignment of rights and obligations under the contract and INCOTERMS clauses. After analysing the respective provisions of the contract for work in view of practical life, further legal frameworks applied in capital construction are described, including framework agreements (i.e. a legal framework for further

relationships based on obligations that are established on a separate basis on the grounds of other legal acts and the contents of which are partly governed by the framework agreement) and the application of commercial terms and conditions (i.e. a document which forms part of the contract and governs part of the mutual rights and obligations of both contracting parties). There is a major difference between general commercial terms and conditions on one hand (which the contracting parties do not have to be familiar with; it is sufficient that they have been drawn up by professional or interest organisations) and other commercial terms and conditions on the other hand (which the parties are either familiar with – in that case they do not have to be attached to the draft contract, or not – in that case they must be attached to the draft contract). Finally, the thesis shows some current issues related to contracts for work in practical life, including a low legal and factual standard of the contracts, abuse of economic dominance of one of the contracting parties and low claim management standards.