

A Contractual fine

Keywords

Contractual fine, damages

Summary

The aim of this Master's degree thesis is to analyze the usage of contractual fine in civil-law relations. This essentially very useful institute is used in almost every possible contract although often without proper knowledge or sometimes even without good intention. The main goal of this study therefore may be simply to provide parts of the contract with a guide called „*How to arrange (not)valid contractual fine*“.

The thesis is composed of six chapters, each of them dealing with different aspects of the contractual fine. Chapter One searches for the best available definition of contractual fine both in specialized literature and in injudicial sources and points out differences in point of view of the authors.

Chapter Two deals with the purpose of contractual fine and hierarchy of its functions in order to provide deeper understanding of situations suitable for arranging a contractual fine.

Chapter Three focuses on the basic characteristic of contractual fine mainly in contrast to the attributes of punitive interests which is the institute of some similar functions. The Chapter also examines the questions of concurrence of these important institutes.

Chapter Four examines relevant legislation both in Civil and Commercial Code, explains the differences between them and attempts to find the reasons for that. It also illustrates rights of the consumers (mainly concerning contractual fine) under the Commercial Code. Furthermore the legislation of forthcoming new Civil Code is described.

Chapter Five highlights the most common mistakes made in relation to the arranging of contractual fine. This chapter also refers to questions of validity of agreement on contractual fine concluded via internet.

Chapter Six critically analyzes the argumentation in the set of similar cases about validity of contractual fines resolved by courts and subsequently deals with variety of reasons of invalidity of contractual fines at large.

In the conclusion of the thesis main results and discoveries about contractual fine made in the study are transparently summarized.