

## Abstract

The purpose of my thesis is to analyse the regulation of consumer contracts negotiated away from permanent retail locations and to outline the industry of direct selling in the Czech Republic, the European Union and the United States.

The thesis is subdivided into six independent chapters.

Chapter One is introductory and defines basic terminology used in the thesis. This Chapter is divided into three parts. Part One defines direct selling as a channel of distribution for the marketing of products and services directly to consumers. Part Two presents different kinds of direct selling, i.e. door-to-door selling, person-to-person selling, home parties and group selling. Finally Part Three compares direct selling with distance selling.

Chapter Two provides an outline of the relevant legal regulation of direct selling. The current legislation in the European level is composed of Directive 85/577/EEC which relates to protection of the consumers in respect of contracts negotiated away from business premises. The Directive has been implemented into Czech legal system on the basis of the Czech Republic's membership in the European Union. The Directive is provided in Section 57 of Czech Civil Code 40/1964 Coll. This Part also looks at the process of the review of the consumer *acquis*.

Chapter Three deals with the crucial topic of the thesis, namely with the implementation of Directive 85/577/EEC into Czech Legal System. The chapter is subdivided into six parts. The comparative discussion covers not only the Czech legislation but also the Community law, as well as the legal systems of other EU Member States. The analysis is carried out within the framework of judicial decisions of the ECJ. Comparative analysis also deals with the proposals *de lege ferenda*, i.e. Proposal for the Directive on consumer rights and Proposal for New Czech Civil Code.

The passage analyses the individual institutes to be used in Directive, i.e. persons covered under the Directive, situations falling within the scope of the Directive and consumer protection instruments. The conclusions of this chapter reveal the substantial differences between the various national implementing measures as a result of utilising

minimum harmonisation clause and regulatory options. Also some transposition deficiencies in national jurisdictions have been identified. The Czech legislator implemented the Directive in a fragmentary manner and without links to existing institutes in private law.

Chapter Four describes the legal regulation in the United States in the context of federal legislation. The consumer protection in the United States is comparable with the consumer protection in the EU Member States.

Chapter Five refers to self-regulation in direct selling. The self-regulation is provided on a world, European and also regional basis. The World Federation of Direct Selling Associations (WFDSA) has developed a World Codes of Conduct for Direct Selling which all regional Direct Selling Associations (DSAs) have approved and implemented in their national codes. All direct selling companies agree to be bound by these codes as a condition of membership in a national DSA.

Chapter Six presents Multi Level Marketing as a type of compensation plan found in direct selling. This chapter predominantly concentrates on problems resulting from the fact that the Multi Level Marketing combines the sales structure of Single Level Marketing with the recruiting structure of pyramid selling. Pyramid selling is prohibited in majority of national laws. The chapter presents main distinctions between legitimate and illegal schemes and provides a brief overview of regulation in some EU Members States, namely in France, Germany, Spain and Great Britain. I suggest that the analogous legislation should be passed in the Czech Republic in this respect.