

## **Abstract**

The following diploma thesis is called “The scope of liability to damages under the Commercial Code”. I have chosen this theme because the damages are one of the most important legal instrument and in accordance with the actual practice of the courts and legislative development also a dynamically developing part of the civil law with perspective on the new attitude to this instrument with respect to the draft bill of the new Civil Code. The aim of the thesis is to acquaint the reader with the current legislation, compare current legislation with respective court decision and opinions of the juristic community and offer new look on the issue.

The thesis is divided into seven chapters. The first one is a preface and defines the matter of thesis. The last one is a conclusion and contains the final look on the scope of liability to damages under the Commercial Code and the brief review of conclusions contained in the thesis.

Chapter Two deals with legal regulation of formation of the liability to damages and is composed of three parts, each of them is dealing with different matter of this formation. Part One contains the basic precondition, which shall be met in order to claim damages according to the Commercial Code. Part Two focuses on the duty to inform about the occurred damage. Part Three looks at the possible methods of the compensation of the damage.

Chapter Three deals with the scope of liability to damages and is particularly composed of two parts. Part One presents the actual damage in all eventual forms. Furthermore, this part reviews the respective decision of courts, opinions of the juristic community and seeks to find the most suitable definition of the actual damage. Part two refers to the institution of the lost profit whereas the conception of the actual lost profit and abstract lost profit are described and explained.

Chapter Four explores the legal and contractual possibility of the limitation of liability to damages. The first part of this chapter reports on the provisions, which limits the liability to damages in the statutory way (e. g. foreseeability, influence of the actions of the injured party regarding the scope of the liability etc.). The second part deals with the possibility of the contractual limitation of liability to damages, particularly the possibility of the waiver of the claim on damages.

Chapter Five focuses on the relation of the damages to the other legal instruments. The respective highlighted instruments are contractual penalty according to the Czech laws, default, liability to defects and forfeiture.

Chapter Six (i. e. the last material chapter before conclusion) outlines and describes the legal regulation of the liability to damages in accordance with the individual types of contract according to the Commercial Code. This chapter is divided into six parts, which are dealing with the particular type of contract individually. The contracts count among these types as follows: purchase agreement, inspection agreement, mandate contract, storage agreement, freight forward agreement and the contract of carriage.