Abstract

Protectionist provisions of the civil nature in commercial contractual relationships

The purpose of this thesis is primarily to answer the question how and to what extent can be applied in commercial-law relations protectionist provisions of the civil nature.

The main aim of the thesis is to determine at which subjects can protectionist provisions fall and next the thorough identification of these provisions. The thesis also examines the issue of application of civil liability for breach of obligation in commercial contractual relationships with the consumer element, specifically liability for delay with payment of a monetary debt.

The whole thesis is systematically divided into three main chapters. The first chapter serves primarily as a general introduction to the issue of deliberate protection of weaker contractual party and describes the development of protectionist provisions, where we study two developmental lines. First we study the development of European consumer law on which our law is based and next we focus on the development of Czech legislation. Exceptional attention is dedicated to the genesis of provision § 262, paragraph 4 of the Commercial Code, which we consider as crucial to our theme, becouse this provision make the penetration of civil protectionists provisions in commercial conctractual relationships possible. The second chapter is already contended with practical problems. It deals with the interpretation of that provision and is divided into two sections. The first one is trying to answer the question of what is the correct personal scope of that provision. The second one focuses on the issue of which civil provisions of the protectionist nature can be used in commercial contractual relations. The last chapter deals with the issue of liability for delay with payment of a monetary debt. Specifically, it seeks to resolve the discrepancy of opinion if it is possible for the entrepreneur and the consumer to agree on the level of interest on delay, which is different than the civil law sets.