

# Table of Contents

The Authors	3
List of Abbreviations	11
Preface	13
General Introduction	15
§1. GENERAL BACKGROUND OF THE COUNTRY	15
§2. LEGAL FAMILY AND THE CZECH LAW	16
§3. PRIMACY OF LEGISLATION IN THE CZECH LEGAL SYSTEM	16
§4. THE POSITION OF THE JUDICIARY	16
§5. DISTINCTION BETWEEN PUBLIC LAW AND PRIVATE LAW (‘ADMINISTRATIVE CONTRACTS’)	17
§6. DISTINCTION BETWEEN CIVIL LAW AND COMMERCIAL LAW (‘COMMERCIAL CONTRACTS’)	18
Introduction to the Law of Contracts	20
§1. DEFINITION OF THE LAW OF CONTRACTS	20
§2. HISTORICAL BACKGROUND OF THE LAW OF CONTRACT	21
§3. CLASSIFICATION OF CONTRACTS	22
§4. CONTRACTS AND TORTS	23
§5. CONTRACT AND QUASI-CONTRACT	23
§6. CONTRACTS AND THE LAW OF PROPERTY	24
§7. CONTRACT AND TRUST	24
§8. GOOD FAITH AND FAIR DEALING	24



## Table of Contents

§9. STYLE OF DRAFTING	25
§10. SOURCES OF THE LAW OF CONTRACT	26
Selected Bibliography	27
Part I. General Principles of the Law of Contract	29
Chapter 1. Formation	29
§1. AGREEMENT AND QUID PRO QUO (RECIPROCITY)	29
I. Offer and Acceptance	29
II. Intention to Create Legal Relations	30
III. Consideration, Gratuitous Promises, Natural Obligations	32
A. Consideration	32
B. Gratuitous Promises	32
C. 'Natural Obligations'	32
IV. Modifications of the Contract	33
§2. FORMAL AND EVIDENCE REQUIREMENTS	35
I. Formal Requirements	35
A. Tender	36
II. Contract under Seal	36
III. 'Solemn' Contracts	36
IV. Evidence Requirement	36
V. Function of the Notary and Notarial Instruments	36
VI. Burden of Proof	37
§3. LIABILITY AND NEGOTIATIONS	38
I. Pre-contractual Liability	38
II. Breakdown of Negotiations	39
A. Termination	39
Chapter 2. Conditions of Substantive Validity	40
§1. ESSENTIAL ELEMENTS	40
Chapter 3. The Content of a Contract	48
§1. GENERAL EXPLANATION	48
I. Consequences	48
II. Grounds and Consequences of Invalidity	49
§2. INTERPRETATION	57
§3. CONDITIONAL CONTRACTS	57
Chapter 4. Privity of Contract	60



## Table of Contents

§1. THE RULE OF PRIVACY OF CONTRACT	60
I. Third Parties and the Contract	60
II. Contract for the Benefit of a Third Party	60
III. Contract to the Debit of a Third Party	61
§2. TRANSFER OF CONTRACTUAL RIGHTS AND/OR OBLIGATIONS	61
§3. THE SPECIAL CASE OF A SUBCONTRACT, FOR EXAMPLE, THE (NOMINATED) SUBCONTRACTOR IN BUILDING CONTRACTS	66
§4. <i>ACTIO PAULIANA</i>	66
Chapter 5. Termination of the Contract	68
§1. DEBT FULFILMENT: PERFORMANCE AND BREACH	68
§2. IMPOSSIBILITY AND HARDSHIP: UNFORESEEN IMPOSSIBILITY	71
§3. WITHDRAWAL FROM THE CONTRACT	71
§4. SETTING OFF (UNILATERAL AND BY THE AGREEMENT)	72
§5. AGREEMENT ON A NEW OBLIGATION ( <i>NOVATION</i> )	73
§6. WAIVER OF A RIGHT	73
§7. REMISSION OF DEBT	74
§8. SETTLEMENT	74
§9. BY LAPSE OF TIME	75
§10. DEATH OF THE DEBTOR OR THE CREDITOR	75
§11. PRECLUSION OF RIGHTS	75
§12. DEBTOR'S DELAY UNDER 'FIXED' CONTRACT	76
§13. MERGER OF DEBTS	76
Part II. Specific Contracts	77
Chapter 1. Consumer Contract: General Provisions	78
§1. GENERAL RULES FOR CONSUMER CONTRACTS	78
I. Distance Contracts	79
II. Contracts Negotiated Away from Business Premises	82



## Table of Contents

Chapter 2. Sales	84
§1. 'CIVIL' SALE	84
I. Exchange (Barter) Contract	87
II. Sale of Goods in Shops	87
§2. 'COMMERCIAL' SALE	88
I. Sale (Transfer) of the Enterprise	95
II. Sale of a Leased Thing	97
Chapter 3. Donation	99
Chapter 4. Contract for Work	100
§1. 'CIVIL' CONTRACT FOR WORK	100
§2. 'COMMERCIAL' CONTRACT FOR WORK	102
Chapter 5. Loans	108
§1. LOAN FOR CONSUMPTION	108
§2. LOAN FOR USE	108
Chapter 6. Lease Contracts	110
§1. GENERAL PROVISIONS	110
§2. LEASE OF FLATS	110
§3. LEASE OF NON-RESIDENTIAL (BUSINESS) PREMISE (SPACE)	111
§4. LEASE OF AN ENTERPRISE	111
§5. LEASE OF A MEANS OF TRANSPORT	114
Chapter 7. Mandate	115
§1. 'CIVIL' MANDATE	115
§2. 'COMMERCIAL' MANDATE	117
Chapter 8. Bailment (Contract on Custody, Deposit)	119
§1. 'CIVIL' BAILMENT	119
§2. 'COMMERCIAL' BAILMENT	120



## Table of Contents

§3. STORAGE	122
§4. COMMERCIAL CONTRACT ON BANK DEPOSIT OF A THING	123
Chapter 9. Accommodation for a Short Term	125
Chapter 10. Transportation	127
§1. 'CIVIL' TRANSPORTATION	127
§2. 'COMMERCIAL' TRANSPORTATION OF GOODS	130
Chapter 11. Agency Contracts (Brokerage)	132
§1. 'CIVIL' AGENCY	132
§2. COMMERCIAL AGENCY	132
§3. BUSINESS ON COMMISSION (COMMISSIONARY AGENCY)	135
§4. 'COMMERCIAL' PROCUREMENT	137
Chapter 12. Bank Businesses	139
§1. (BANK) DEPOSITS	139
§2. DEPOSIT ACCOUNT	139
§3. CREDIT	140
§4. CURRENT ACCOUNT	141
§5. TRAVELLER'S CHEQUE	141
Chapter 13. Insurance	143
Chapter 14. Civil Partnership	146
Chapter 15. Silent Partnership	148
Chapter 16. Private Annuity	150
Chapter 17. Wagering (Betting) and Gaming	151
Chapter 18. Public Competition	152
Chapter 19. Public Promises	153



## Table of Contents

Chapter 20. Package Tours (Travel Contract)	154
Chapter 21. Contract for Operation of a Means of Transport	156
Chapter 22. Contract for Inspection Activities	157
Chapter 23. Quasi-contracts	159
§1. OBLIGATIONS ARISING FROM UNJUSTIFIED ENRICHMENT	159
I. General Outline	159
II. The Obligations Arising from Unjustified Enrichment	159
III. Legal Consequences of Unjustified Enrichment	163
§2. AGENCY WITHOUT MANDATE ( <i>NEGOTIORUM GESTIO</i> )	164
Index	167