

Summary of PhD dissertation

Conclusion of contract by way of offer and acceptance under the United Nations Convention on Contracts for the International Sale of Goods

The aim of the dissertation is to present the issue concerning conclusion of contract by way of offer and acceptance under the United Nations Convention on Contracts for the International Sale of Goods and above all to make the reconstruction of the legal rules set out in the CISG and their evaluation in terms of a coherent and well-functioning mechanism for conclusion of contracts.

The dissertation also introduces the historical aspect of its creation, which is expected to lead to full understanding and proper interpretation of its provisions. In the PhD thesis I also signal practical problems arising at the time of application of the Convention. The dissertation also presents different views and opinions of representatives of the doctrine and the key positions of the courts, concerning above all the issue of the conclusion of contracts under the Convention. Particular attention I devote to comparative legal interpretation that constitutes the main research point. In my view, only an analysis of the regulations of other legal systems allows for the proper understanding of the legal norms under the CISG.

The goal of the dissertation is also to answer the question of how an international contract of sale can be concluded and what standards govern that process. The next aim of the PhD thesis focuses on specific issues, indicated below:

- a) determining the methods which are applied by courts during interpreting the provisions of the Convention, including those relating to the process of conclusion of the contract,
- b) indication of the extent to which the Convention affects international trade transactions,
- c) presentation of practical using of provisions of the Convention, which determine the offer and acceptance way of concluding the contract.

The dissertation consists five chapters.

Chapter I presents definitions of contract and theories of contract. To discuss the first issue I present not only the definition of contract in private law, but also in public law. This chapter also introduces the basic theories of contracts, indicated primarily in German legal literature. Description of contract theories includes those propose in the common law, which have not been presented in Polish literature. In this part of the dissertation I also make the interpretation of the term "consent", which is an essential element of the formation of the contract. The analysis is also carried out on the basis of psychological science. This chapter presents the legal definitions of the contracts which are used in different jurisdictions. I characterize the genesis of the contract and the contract of sale. Also, I present the definition of contract initiated on the basis of Roman law and refer to the various legal definitions of the various legal systems. In that chapter I present the issue of the principle of *lex mercatoria*. In this section, I point out that the rules of this law are the basis for forming uniform rules of international contract. In this chapter, I describe the genesis and indicate the scope and characteristics of *lex mercatoria*. In addition, due to the differences in doctrine, I present the definition of *lex mercatoria*.

History of the United Nations Convention on Contracts for the International Sale of goods is contained in chapter II. In this section, I describe the beginnings of the process of convergence of private law and general characteristics of the Convention. In this part of PhD thesis I describe, *inter alia*, its scope and point to its international character. Chapter II deals with the issue of contract strictly on the basis of the CISG. In this section, I point out that the Convention, governs only offer and acceptance method of conclusion of contract.

Chapter III is devoted to the description of the method of conclusion of contract by way of offer and acceptance. In this chapter I describe the universal nature of the offer, I discuss the subject of definition of offer and characterize the express intention of conclusion of contract. I point out, among others the position of the doctrine of the common law system on that issue. That system contains a number of rulings on the issue of intention to be bound. This chapter also discusses the definition of the invitation to offer or to start negotiation.

Chapter IV relates to accuracy (specificity) of offer. I describe this issue in that part of PhD dissertation and the subject of the determination of price, quantity and commodity in offer. In addition, I discuss the requirement for the conclusion of the price in offer. The issue of a contract concluding by standard pattern of agreement is presented in that chapter. I point out here that the majority of legal scholars state that the Convention does not regulate that way of conclusion

of contract. In this chapter, I debate on "collision of patterns of contracts (battle of forms)" and point out that this institution does not apply on the basis of the Convention. In that chapter I describe the effectiveness of the offer. I specify in summary of that part, that the CISG generally accepts theory of the dispatch of offer, which sets the starting point of the binding of offer.

Chapter IV relates to the issue of withdrawal of the offer. I differentiate the criteria that distinguish the institution of rejection of offer from withdrawal of offer. In this section, I pay the special attention to the form of the withdrawal of the offer. Analysis of issue of revoking of offer is dedicated to that chapter. I emphasize that, in practice, the aforementioned institution causes a lot of doubts, due to the differences prevailing in certain jurisdictions. In this chapter I describe also the issue of irrevocability of an offer. The CISG states that the offer is irrevocable if among others it includes a deadline, or otherwise indicates that it is irrevocable.

In Chapter V I describe the issue of acceptance of the offer. I notice that the formula of acceptance of the offer, including among others the implementation (accession) of contract. In this part of the dissertation I also discuss about the issue of silence and inaction of offeree that under the CISG does not, generally, mean the acceptance of the offer. In that chapter I analyze issue of rejection of offer. In this part of the dissertation I discuss his methods. Moreover, I present the problem of the effectiveness of acceptance of the offer. On the basis of the CISG, as a rule, acceptance of the offer takes place as soon as it reaches the offeror, in accordance with Art. 24 CISG. Chapter V is associated with the issue of delayed acceptance of the offer. In this part of PhD thesis I make the division on delayed sending of acceptance and delayed delivery of acceptance. The first mentioned previously institution was established in CISG in reference to theory from the common law system. The chapter concerns the issue of withdrawal of acceptance of the offer. This part of the dissertation is completed with the conclusion that this action can take place if the withdrawal reaches the offeror before or at the same time as the acceptance would have become effective. In that part of dissertation I describe the issue of modifying acceptance of the offer. In order to explain the significance of the amendments, I present the numbers of case-law, which are essential in order to make proper interpretation of the provisions regulating that issue.