Because of the specific contract making techniques, incorporation of general and special policy conditions in typical regulations of an insurance contract, the beneficiaries may face unfair contract clauses that limit or even does not include the liability of insurer that he has according to the law. Disproportionate control of the contract is given to the stipulator of the clause, especially in the part concerning mutual rights and obligations, and the insured person is placed in a substantially unequal legal position, which unreasonably violated contractual balance. There are problems in the preparation and interpretation of insurance contracts, more or less, in all types of insurance, and they are also evident in casco insurance of motor vehicles. Therefore, the author of this paper also analyses one of the most common misunderstandings between the insurer and the insured, which refers to the calculation of insurance benefits in the case of theft, i.e. total damage to the vehicle. On the other hand, on the basis of specific regulations which protect users of insurance services, as well as the broader norms that derive from general law and principles of law, the courts have the right and obligation to cancel the unfair terms and provisions of insurance, in order to make balance and the equivalence of contract conditions. The author points out, however, that the automatic and uncritical elimination of certain clauses concerning the loss of right could lead to another extreme – law abuse by the insured.

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Defining insurer liability in the motor hull insurance

SUMMARY

Because of the specific contract making techniques, incorporation of general and special policy conditions in typical regulations of an insurance contract, the beneficiaries may face unfair contract clauses that limit or even does not include the liability of insurer that he has according to the law. Disproportionate control of the contract is given to the stipulator of the clause, especially in the part concerning mutual rights and obligations, and the insured person is placed in a substantially unequal legal position, which unreasonably violated contractual balance. There are problems in the preparation and interpretation of insurance contracts, more or less, in all types of insurance, and they are also evident in casco insurance of motor vehicles. Therefore, the author of this paper also analyses one of the most common misunderstandings between the insurer and the insured, which refers to the calculation of insurance benefits in the case of theft, i.e. total damage to the vehicle. On the other hand, on the basis of specific regulations which protect users of insurance services, as well as the broader norms that derive from general law and principles of law, the courts have the right and obligation to cancel the unfair terms and provisions of insurance, in order to make balance and the equivalence of contract conditions. The author points out, however, that the automatic and uncritical elimination of certain clauses concerning the loss of right could lead to another extreme – law abuse by the insured.

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Original Scientific Work