LEASE CONTRACTS: CROATIAN LAW IN COMPARATIVE CONTEXT

Lease contracts in national laws of European countries

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CROATIAN LAW IN COMPARATIVE CONTEXT

Law on Obligations (2005)

Law on Leasing (2006)

Lease contract

“Najam”

“Zakup”

Financial leasing

Operative leasing

A LEASING COMPANY

A leasing company is a legal entity registered in the Republic of Croatia and incorporated in the registry under an act of the lease issued by the Croatian Financial Services Supervisory Agency.

The leasing company may be incorporated as a partnership and/or as a limited liability company. The leasing company may not be incurred in the major register unless it obtained the license. The term “leasing” and its derivatives in the company name may be recorded in the court registers and must be in legal translation, only by a company that has obtained the license.

SUBLEASE

The lessor may fully or partially assign the contract to a third party or a third party may enter into a separate contract with the lessor. The lessor may not assign the lease Contract to a third party, because of the lease agreement the lessee has the right to demand from the lessor the compensation for the damage compensation if the lessor assigns the leased asset to a third party without taking into account the lessor’s wishes.

FINANCIAL AND OPERATIVE LEASING CONTRACT IN CROATIAN LAW

LEASE CONTRACT

According to art. 350 OR BGB, leases are classified into financial leases and operative leases. An lease is a contract of an lease between a lessee and a lessor, where the lessee uses the leased object and the lessor bears the depreciation costs of the leased object and by applying a purchase option, the lessee obtains the ownership of the leased object.

The contract of an lease is a special type of contract. It is concluded for the purpose of giving to the lessee the right to use the leased object, but not the right to own it.

In the lease contract, the lessee is entitled to receive the leased object in accordance with the written agreement, and the lessor is entitled to receive the lease payments in accordance with the written agreement.

LEASE CONCLUSION

The lessor is entitled to receive the lease payments in accordance with the written agreement, and the lessee is entitled to receive the leased object in accordance with the written agreement.

The lease contract is concluded in writing.

LEASE EXTENSION

The lease contract is extended to the period of the lease term as a result of the lessee's consent.

LEASE TERMINATION

The lease contract shall be terminated on the expiration of its term.

Lease contract with a financial purpose as a nominee contract

Lease contract with a financial purpose as an inominate contract

Termination of the lease contract due to payment default

When the lessor terminates the lease contract due to non-payment of the lease payments, the lessee may purchase the leased object from the lessor.

RETURN OF THE LEASED OBJECT

The lessee may purchase the leased object from the lessor in the manner and in the conditions stipulated in the lease contract, unless pursuant to the lease contract, the lessee makes the conditions for ownership of the leased object.

RESPONSIBILITY OF THE SUPPLIER TO THE LESSEE

If the supplier fails to deliver the object to the lessee, delivers late or if the object does not exist, the lessor shall have his own receivers, but in such cases the responsibility of the supplier on civil obligations, it would be if it were in agreement directly with the supplier. If the lessor fails to deliver the object to the lessee in accordance with the lease agreement, the lessor shall compensate the lessee for the loss, and the lessor shall be held responsible to the lessee if the leased object is not delivered, delivered late or has bad quality.

THIRD PARTY CLAIM ON THE LEASED OBJECT

The lessee shall be responsible for termination of the lease on the expiration of its term or if the lessee does not comply with the obligations stipulated in the lease agreement, in which case the lessee shall return the leased object to the lessor.

Dissection between a right to use and a right to use and fruits in civil codes

• Mortgage (§§ 1151 BGB) and Hypothec (§§ 1151 BGB)
• Rent and debt (§§ 1151 BGB, § 1151 Zuch)
• Ratification (art. 275 OR) and Aad (art. 1631 OR)
• Sale (art. 550 ZUO) and gift (art. 519 ZUO)

No distinction between a right to use and a right to use and fruits in civil codes

• Mortal at lease (art. 1799 FCC)
• Air (UK lease law)
• Law (7261 Bf)
• PI-B (1012) DCFR

Common features

• Exclusively contractual relationship
• Temporary character of the right to use the leasing object
• Renunciation as a prerequisite
• Leassees and immovable property
• Non-consumable things

Termination

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