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Unfair clauses and Principles of European Insurance Contract Law

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SUMMARY

Provisions of Principles of European Insurance Contract Law regarding the unfair clauses are analyzed in the paper. The author has come from the importance of definition of unfair clause to the raising of standards of protection of insured as weaker party to the contract of insurance. The central part of the work is devoted to the analysis of unfair clause form the point of view of Principles as well as to the differences between the concept of Principles and concept of Directive on unfair contract terms in contracts concluded with consumers. French law is stressed as an example of inconsistency between consumer law and insurance contract law. There are two clauses of insurance contract: clause of resolution of contract after the realization of risk insured and clause of loss of protection because of late declaration of risk insured. The author proposes the introduction of article on unfair clauses in insurance contracts into the preliminary draft of Serbian Civil Code.

Key words: Principles of Insurance Contract Law, unfair clauses, consumer protection, protection of weaker party

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