

### **The aim of the project**

The main objective of the project is to formulate a comprehensive proposal for changes in contract law – regulation on sales law – that will increase the level of environmental protection.

The specific aims include: verification of the ecological efficiency of the directive 2019/771, determining the possibility of introducing the criterion of economic efficiency into contract law and developing methods for assessment of environmental effects of alternative legal solutions. This will allow for the development of a model that reconciles the core values of modern contract law and the postulate of sustainable development.

### **Reasons behind the choice of research subject**

The challenges posed in front of legislature (both on national and supranational level) by the urgent need to implementation of high standards of environmental protection cannot be successfully faced if addressed only by administrative and penal law. The issue of overuse of resources and excessive waste production should, be equally taken into account when introducing changes into the private law. Currently, there are no initiatives or research aimed at the comprehensive reconstruction of the axiology of contract law and its individual institutions. Attempts to improve the environmental situation through legislative interference are of sectoral, public-law-oriented and reactionary character. Though socially expected, initiatives that aim at providing instruments that could improve the ecological situation on a horizontal level - by modifying the regulations regarding contractual relations between private entities – are lacking.

And yet, it is the contract law, that influences daily transactions of individuals, which seems the best suited mechanism for implementing new values such as ecological efficiency. It is especially the sales law – which foundations influence the contract law system as a whole (provisions on sales contract are the framework and benchmark for regulation of different types of agreements and, therefore, it affects the whole legal system).

### **Overview of study and its effects**

The project is threefold. Initially it aims at verification of the ecological efficiency of the new consumer law act: directive (EU) 2019/771 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the sale of goods, which unifies the regulation on product warranty within the European Union. Despite high environmental awareness of EU, the consumer protection mechanisms proposed in the directive generate substantial environmental footprint. This is caused by several groups of factors of general and specific nature. The starting point for the analysis is therefore the assessment of ecological efficiency of the aim, scope and method of regulation chosen by the EU legislator in the directive 2019/771. The framework of the directive is designed to foster economic growth rather than promotion of sustainable development and proves inadequate in case of new business models that could contribute to the sustainable development (sharing and circular economy platforms that facilitate e.g. shared use of goods or resell of products). Another issue is the inappropriately structured consumer protection mechanisms. Their inadequacy for the realization of the environmental protection goals becomes especially visible at two stages: during contract interpretation when assessing the conformity of the good with the agreement and when establishing the remedies for non-conformity. For instance, the possibility of applying the criterion of the ecological efficiency when interpreting the notion of defect is not addressed. Therefore, several doubts emerge. Is an item, that is not ecologically efficient, defective? Is a product, that lacks some of its functionalities, defective, if this flaw increases its ecological efficiency (e.g. a blender that should have a turbo mode, but lacks this property, is more ecologically efficient, as this mode is inappropriately energy-consuming)?

During the second stage of research the possibility of implementation of the environmental protection principles into the contract law framework is examined. The most pronounced issue in this regard is the tension between core axiological assumptions of contract and consumer law and the ecological values, hindering the incorporation of environmental concerns into the individual's autonomy protecting measures. The traditionally applied economic analysis of law can be supplemented or even substituted by an ecological approach – 'law and economics' becomes 'law and ecology'.

Finally, a proposal of ecologically efficient sales law is prepared.