

# **Provisional Measures in Adversarial Civil Procedure**

## **Abstract**

This diploma thesis is concerned with Provisional Measures in Adversarial Civil Procedure, i.e. with the legal regulation of the Provisional Measures imposed in proceedings pursuant to Act No. 99/1963 Coll., The Civil Procedure Code, as amended (hereinafter the "Civil Procedure Code"). The Provisional Measures are a procedural institute designed to deal with situations where there is an urgent need to temporarily adjust the legal relationships of the participants or to ensure the enforcement of decisions. However, imposing a Provisional Measure does not constitute a definitive solution, since the duration of a Provisional Measure is always limited by time and a successful petitioner will usually initiate a procedure regarding the merits of the case, which will then resolve the case definitively. However, the outcome of a Provisional Procedure does not fundamentally affect the following meritorious judicial decision.

Since the subject of Provisional Measures in civil procedure has been processed many times by students of various law faculties, this thesis also focuses on two sub-institutes of Provisional Measures in Adversarial Procedure, which are damages and compensation for other harm caused by Provisional Measures and security deposited for the purpose of securing this damages and compensation of other harm.

The thesis is divided into three parts. The first, general part, contains a basic analysis of the valid legal regulation of Provisional Measures in adversarial procedure, which is included especially in the second title of the second part of the Civil Procedure Code. The second part deals with the security, while the third part deals with the damages and compensation of other harm caused by a Provisional Measure. The structure of these two parts is basically identical, as firstly the valid legal regulation of the respective sub-institutes according to the Civil Procedure Code is discussed. Then a comparison with legal regulation of the respective sub-institutes in Austria and Slovakia follows, and finally both parts are concluded with an evaluation of the proposed legal regulation of the objectives of the new Judicial Civil Code (which was published by the Ministry of Justice in 2017 and is currently subject to expert discussions) regarding the respective sub-institutes.

**Key words: Provisional Measures, Damages, Security**