

Interim measures in civil procedure

Abstract

Interim measures in the Czech Republic serve the purpose of providing means to secure rights of a person who claims them. This security lasts for a limited time, until the court makes final decision concerning subject matter, or until this decision can be executed. Interim measure is thus only a temporary solution and must be followed by submitting the claim itself. The decision concerning interim measure must be reached quickly and without defendant's prior knowledge, otherwise the purpose of interim measure could be defeated. Because of that the plaintiff is given certain procedural advantages in interim measures proceedings. Thus, the principle of equal treatment of the parties will not be implemented in the fullest, which is justified by specific nature of the interim measures and their temporary effect. Rights of the defendant are protected by security provided by the plaintiff, possible additional raise of this security and plaintiff's liability for damages. The principle of equal treatment of the parties is most disturbed during the procedure at the first instance court, because the defendant actually does not participate at all during this part of procedure. Current interim measures legislation is implemented in Act no. 99/1963 Coll., Code of civil procedure. There were important changes concerning interim measures after 1989, for example introduction of security provided by the plaintiff. Interim measures concerning domestic violence and court-provided care for minors were given special legislation in Act no. 292/2013 Coll., Code of special civil procedure. Because of its historical development, current interim measures legislation does not fully cover the whole interim measures area. These gaps are thus left to be filled by judicial practice, with the essential role of Czech Supreme Court.

Key words: interim measures, civil procedure, equality of arms