

Interim measures in civil proceedings

Abstract

Interim measure is a traditional institution of the civil procedural law, which provides fast and effective protection of subjective rights. However, it is inherent in this protection that it is always only temporary, as it is assumed that the legal relationship between the parties will be settled in the main court proceedings.

The aim of this master's thesis is to give a clear commentary on the current legislation of interim measures, both the general interim measure regulated in the Code of Civil Procedure and special interim measures regulated in the Act on Special Civil Proceedings, and to confront the current legislation of interim measures with the requirements of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Master's thesis is divided into four chapters. The first chapter introduces the institution of interim measure in general terms. It describes their basic characteristics, the modification of procedural principles in interim proceedings and outlines the individual types of interim measures. The second chapter is devoted to the general regulation of interim measures in the Code of Civil Procedure. It sets out the reasons for ordering an interim measure, admissibility criteria and description of the interim proceedings, including the appeal proceedings. Furthermore, the second chapters also contains a commentary on compensation of damages caused by the interim measure. The third chapter covers the Act on Special Civil Proceedings. Firstly, it sets out reasons for its passing and clarifies its relationship to the Code of Civil Procedure and basic differences between contentious and non-contentious civil proceedings. Secondly, it describes two special interim measures regulated by the Act on Special Civil Proceedings, namely interim measure in the matter of protection against domestic violence and interim measure governing child custody. The fourth chapter analyzes the legislation in terms of requirements arising out of the European Convention for Human Rights and Fundamental Freedoms.

The author of this master's thesis came to the conclusion that the current state of legislation concerning interim measures contains a fair amount of shortcomings. The appeal procedure, in which numerous curtailments of the respondent's rights might occur, appears to be particularly problematic.

Key words: interim measure, interim protection, fair trial