

Reasoning of civil judgments

Abstract

This thesis deals with the reasoning of judgments issued in civil proceedings. Court judgment represents the key output of court in civil proceedings, because it is the goal of civil proceedings. However, not only the operative part of the decision, but also its reasoning, in which the court explains its reasoning to the parties and the superior courts, is essential. A statement without adequate reasoning is not reviewable and may also be a reason for considering arbitrariness in judicial decisions. Providing good reasoning is therefore an essential part of a fair trial and also an indispensable ability of a good judge.

The aim of the thesis is to analyze the legal regulation of the reasoning of court decisions in terms of whether it provides sufficient guidance for drawing up a proper reasoning, and to identify the proper reasoning of court decisions with regard to the most often seen shortcomings in practice and how to avoid them. For this purpose the Czech legislation is placed in the context of the right to a fair trial and its individual aspects defined at the supranational and constitutional level. Opinions of professional public are taken into account and the related case law is evaluated.

The thesis is drafted into five chapters, in the introductory chapter the legal basis of the duty to give reasons for judicial decisions based mainly on the Convention for the Protection of Human Rights and Fundamental Freedoms and Article 36 et seq. of the Charter of Fundamental Rights and Freedoms is analyzed.

The second chapter contains the essentials of reasoning of a judgment, focusing not only on written but also oral justification. The particulars are described so that it is clear, what their content should be, how they should be interpreted, including the shortcomings that occur in practice. Within this chapter a distinction is made between the particulars and the grounds for the judgments given in the dispute proceedings, judgments in undisputed proceedings, judgments by acknowledgement and by default, judgments against which appeals are not admissible or against which parties gave up their appeals and judgments of appellate courts. From similar points of view the requisites of resolutions in Chapter Three are described and

evaluated, while the requisites of some types of resolutions, for which it is possible to simplify the reasoning, are again set off.

In order to determine the proper reasoning of a decision, it is in my opinion necessary to compare Czech decisions with foreign decisions, or more precisely compare Czech legislation with foreign legislation, which may be a suitable inspiration. For this purpose I find appropriate the German legislation based on the continental legal system, which is close to the model for reasoning of a decision that applies in the Czech Republic. In order to illustrate the principles of reasoning of decisions on which Czech court decisions are based, the fifth chapter explains the theoretical models of reasoning of court decisions and their differences.

In conclusion I summarize the findings I have made in the course of my thesis, point out the key issues associated with the reasoning of court decisions, including the views of the professional community, the case law and solutions, which I consider most appropriate, together with *de lege ferenda* views.