

KUČERA, Vít: *Preliminary injunction as per Civil Procedure Code*

Abstract

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The thesis pursues the problematics of preliminary injunction in civil trial procedure with emphasis on complex analysis of valid and effective legislation contained within the Civil Procedure Code, and further on selection of consequences related with its practical use, supported by many case law examples chosen through the whole court system mainly in the Czech Republic. As far as the structure of the thesis is concerned, the thesis is divided into theoretical part devoted to the basis of the topic, including historical development of preliminary injunctions, its theoretical grounds, specifics and also nature and purpose of the whole institute. Because of an important reduction or suppression of many universally applicable principles shaping the civil procedure, also the constitutional conformity is researched. The thesis further contains practical part focused on present legislation related to preliminary injunction, which is divided preferentially by the course of a civil proceedings. Attention is paid successively to formal conditions of preliminary injunctions order, including important negative conditions of the proceedings, requirements of motion for preliminary injunction and also one specific condition for the preliminary injunctions, which is the security deposited by the petitioner for the purpose of ensuring damages caused by the preliminary injunction. Furthermore, the thesis is directed on material preconditions of preliminary injunctions order together with analysis of, amongst other, proving the grounds for the preliminary injunction and manifesting the facts decisive for imposing duties by the preliminary injunction, including explanation of these collocations. Important part of the thesis is dedicated to the proceedings on preliminary injunction itself, its procedural specifics or particular decisions which could be ruled by the court, together with legislation related to its substantiation and regular and extraordinary remedies against it. Special attention is directed to the ruling on order of a preliminary injunction, which is one of the possible decisions following material review of the motion on preliminary injunction. The last part of the thesis presents comparison with foreign legislations, specifically with quite recently adopted legislation in Slovakia and with legislation in the Kingdom of Sweden, and also with a fully different angle providing legislation of the United States of America and the United Kingdom of Great Britain and Northern Ireland. The conclusions provide that the preliminary injunctions are still a very

needed and up to now functionally unsubstituted and irreplaceable instrument for securing effectivity of court law enforcement and protection of lawful interests before their illegal interference. This cannot affect application difficulties frequently solved only by case law and related imperfections that has arisen during the legislative process.

Keywords: **preliminary injunction, security, enforcement of court decision**