

The Status and Particularities of a Bill of Exchange Proceeding

Abstract

The thesis deals with a bill of exchange proceedings as a specific kind of civil procedure. This specific kind of proceedings is used for making a claim to a bill of exchange by its owner.

The first chapter contains a definition of the character and purpose of the bill of exchange proceedings. The second chapter defines one of the general conditions of the procedure – jurisdiction. The second part of this chapter defines the preconditions for issuing a specific kind of judgement in the bill of exchange proceedings, the order for payment. The third chapter contains a definition of standing and a specific group of litigants in the bill of exchange relation followed by the party dispositions of the claimants for changes in the party to the proceedings. The fourth chapter deals with the party dispositions of the claimants for changes in the object of the proceedings. This chapter also includes the determination of the relevant point in time for issuing the order for payment in a bill of exchange proceedings. The fifth and sixth chapters contain two specific components of the bill of exchange proceedings, namely special kind of appeal known as objections and the concentration of proceedings. There are also mentioned the objection to set-off against the bill of exchange claim and a counterclaim in the bill of exchange proceedings in these chapters. The seventh chapter deals with the allocation of the burden of proof in the case of proving the authenticity of the signature on the bill of exchange and the right to fill in the blank bill of exchange. The eighth chapter deals with the usage of other forms of decisions in the bill of exchange proceedings. The next chapter is chapter nine, which defines the types of appeals in the bill of exchange proceedings. The tenth chapter of the thesis is dedicated to point out the consequences of issuing the order for payment in the bill of exchange proceedings in enforcement and bankruptcy procedures. Finally, the last chapter provides insight into the draft of the new Civil Procedure Code in the Czech Republic.

The role of the thesis is to define the status of the bill of exchange proceedings in civil procedure and its specific features. The further role of the thesis is to examine the applicability of procedural instruments in the bill of exchange proceedings and point out the particularities of making a claim to bill of exchange and enforcing this claim, pursuant to the current opinions of the bill of exchange experts and especially abundant case law.

Klíčová slova: bill of exchange proceedings, bill of exchange, order for payment.