

The principle of party disposition and its restriction in civil proceedings

Abstract in English

The submitted diploma thesis deals with the principle of party disposition in civil proceedings which is a guiding principle of civil proceedings, however, it is heavily restricted in the Code of Civil Procedure. The main aim of this thesis is to emphasise the importance of the principle of party disposition in civil proceedings, identify the number of institutes which are restricted, deal with reasons of this restriction of the principle of party disposition, and propose possible changes, which would preserve the principle of party disposition completely.

The first part of the thesis presents a theoretical definition of the principle of party disposition. It is also necessary to discuss other legal principles which are connected to the principle of party disposition because it never appears alone, as it is always accompanied by another general principle. This part of the thesis also focuses on the history of the principle of party disposition in civil proceedings. The crucial period for discussed principle was the first half of the 20th century because the disposition principle was not restricted at all. On the other hand, the second half of the 20th century represents a period of strict restrictions of the principle of party disposition. The historic background is necessary for the understanding of some restrictions and it also inspires possible changes in the Code of Civil Procedure which would not restrict the principle of party disposition.

The second part of the thesis presents the dispositional procedural acts of a plaintiff, defendant, and also disposition procedural acts that belong to both parties. The discussed topics are e.g. a ban of withdrawal of a petition after a vacation of a judgement by the Supreme Court, or the fictions of the disposition acts (fiction of recognition of a claim, fiction of withdrawal of a petition). Some institutes are also compared to the Slovak Code of Civil Procedure due to our common history. The same Code of Civil Procedure was used in the Czech Republic and Slovakia since 1964 and both countries were using it also after 1993. There is a next Code of Civil Procedure in Slovakia since 2016 which can be used as a source of an inspiration.

Key words: principle of party disposition, procedural act, fiction of the disposition act