

Abstract

Preparation of a hearing in the civil procedure

The topic of this thesis is preparation of a hearing in civil procedure. It represents a phase of civil procedure which starts the moment the action is brought to the court and ends with the hearing itself. The hearing should be regarded as the culmination of the whole procedure, which is why the right approach to the preparation of a hearing is not any less important than the hearing itself. The aim of this thesis is to give a comprehensive overview of this issue by reviewing the past, analysing the present legislation and providing *de lege ferenda* reflection.

The thesis is divided into three parts. The first one is a historical overview, in which the author describes the legal development of the preparation of a hearing since 19th century until present. Legal principles, that has formed during this legal evolution and that are affecting today's legislation, are described in the beginning of the second part of the thesis. Principle of concentration and of single hearing being the two most emphasized principles. The majority of the second part deals with the current legislation, which is primarily contained in the art. 114 to 114c of the Czech Civil Procedure Code. The thesis describes the specific steps that the court has to undertake after the action is filed, meaning the review of the action itself and of the procedural requirements. Subsequently the thesis analyses art. 114a of the Civil Procedure Code which contains a requirement for the case to be resolved during one hearing. It also provides the court with specific procedural instruments to fulfil this requirement, which are also examined.

The core of the thesis is the analysis of the two fundamental provisions of the Code that are governing qualified notice and preparatory hearing. The emphasis is put on the conditions, under which the qualified notice can be issued and for which specific kinds of procedures it is suitable with respect to its characteristics. Since it is provision rather controversial, there are also mentioned views of its critics. The thesis also describes the review its constitutional conformity, which it had to undergo. Concerning the preparatory hearing, the thesis stresses out its practical aspects and it includes summary of its benefits, as contributed by several judges.

The last part contains evaluation of the positive and negative aspects of the current legislation, subsequently the relevant articles of the proposal of the new procedural code are analysed. Finally, the thesis includes a contemplation how the preparation of the hearing in the civil procedure should look like in the future legislation according to the author of the thesis.