

## **Part V of the Civil Procedure Code and possible changes in the legislation**

### **Abstract**

The master's thesis is dealing with proceedings acted upon Part V of the Civil Procedure Code in 3 major points of perspective. Firstly, the circumstances that led to formation of dualistic conception in judicial review of administrative decisions in historical context, second perspective is the own legal procedure with emphasis on application problems in concrete rules explained with help of judicature of Constitutional Court, Supreme Court and Supreme Administrative Court. The third point of perspective is possible changes in the legislation and possibilities which were introduced in the most recent proposal of new procedure code.

In current legislation, there are two options of judicial review of administrative decisions, one by the Civil Procedure Code, second by the Code of Administrative Court Procedure. The dividing line between those is if subjective rights affected by the decision were private or public. This dualism worked in the Czech legal system already in the period of First Czechoslovak Republic. Administrative justice was first implemented during the Austrian Monarchy which is also reviewed in the thesis. The period after 1989 is analysed very deeply because the Civil Procedure Code has not been recodified, although experts have suggested that. Firstly, administrative decisions were reviewed in an undifferentiated procedure. However, that was in conflict with the European Convention on Human Rights and the Constitutional Court revoked the procedure after numerous criticism. This is the reason why legislator has chosen the dualistic concept.

The middle part of the thesis analyses the Part V of Civil Procedure Code itself and describes possible problems that can occur during the proceeding. Elements of the claim, parties to the proceedings, the so called omitted parties, the concentration of the proceedings and possible decisions made by court are analysed. Procedure of court when the claim is filed to the wrong court are critically reviewed because this formal process leads to long delay in the proceeding.

The last part of the thesis deals with possible evolution of the legal system. The Civil Procedure Court is almost 60 years old and due to frequent amendments, the conception and philosophy of the act is lost, which complicates application to the court and parties. Since 1990s, discussions about recodification have been held but there is no significant advancement. Most

recently, a draft bill has been prepared with 3 possible options how the judicial review of administrative decisions can be legally regulated.

**Key words: Part V of the Civil Procedure Code, legal dualism, recodification of civil procedural law**