

Attorney's remuneration in relation to the costs of the proceedings

Abstract

This master's thesis focuses on the topic of methods of determining the attorney's remuneration for his provision of legal services, the relationship of this remuneration to the compensation for the costs of civil proceedings and a collision of Section 149 subsection 1 of the Act No. 99/1963 Coll., Act on Code of Civil Procedure with Section 10 subsection 6 of the Resolution of Board of the Czech Bar Association No. 1/1997 Bulletin laying down the rules of professional ethics and rules of competition for attorneys in the Czech Republic (Code of Ethics) and it was to understand this conflict that the aforementioned institutes had to be explained.

The thesis is divided into five chapters. The first chapter deals with contractual attorney's fees, their types and the sources of this method of determining attorney's fees. The subsections of this chapter also introduce the pro bono institute and the recent case law of the CJEU concerning the conditions for determining the contractual remuneration of an attorney providing legal services to a consumer.

The second chapter deals with the so-called non-contractual attorney's fees. Specifically, it describes the basic mechanisms for determining an attorney's non-contractual fee through the relevant provisions of the Decree No. 177/1996 Coll., Decree of the Ministry of Justice on the remuneration of attorneys and compensation of attorneys for the provision of legal services (attorney's tariff). A subsection of this chapter also addresses criticism of the current state of this decree by members of the legal community. In addition, a comparison of contractual and non-contractual attorney's fees is provided at the end of the chapter.

The third chapter presents the relationship between fees and costs. The basic principles and functions of the institute of compensation of costs are described, and their application is described in civil proceedings, both contentious and non-contentious. The chapter concludes with the allocation of legal fees as part of the costs of the proceedings.

The fourth chapter presents the central problem of this thesis, which the author of the thesis wants to highlight and explore. For this purpose, the institutes in the previous chapters had to be introduced. First, the position of the advocate as a place of payment in the context of payment of compensation for the costs of proceedings under Section 149(1) of the Civil Procedure Code is presented, followed by Article 10(6) of the Advocate's Code of Ethics, under which advocates are obliged not to enter into a contract with their clients on the basis of which the client would receive an unjustified financial benefit. Other subchapters of this thesis

describe the risks associated with this collision, the probable causes of its occurrence, possible solutions to this collision and the author's de lege ferenda considerations, in which he outlines his own procedure for solving this collision.

The fifth chapter presents the Irish legal system's adaptation of the institutes mentioned in the previous chapters of this thesis. The essence of this chapter is to present a different possible way of working for the remuneration of attorneys for the provision of legal services and to apply this way of working to the conflict presented in chapter four of this thesis.

Klíčová slova: [3 klíčová slova v anglickém jazyce]

Attorney's remuneration, costs of the proceedings, unjustified pecuniary benefit to the client