

## **Abstract**

This diploma thesis is focused mainly on the judgment by acknowledgement and judgment by default which are institutes of the civil procedural law, which purpose is mainly to increase the efficiency of the legal proceedings. The aim of the thesis is to offer a complete overview of the current legal legislation and its practical usage. At the same time this thesis attempts to cope with problems, which the current legislation suffers with, and offers convenient conceptual solutions. This piece of work is divided into five chapters.

The first chapter generally concerns the judgment by acknowledgement and clarifies the conditions in details that are essential to meet for its issuance. It concurrently distinguishes the judgment issued on the basis of actual acknowledgement by defendant and a judgment issued on the basis of legal fiction of acknowledgement of claim.

The second chapter is dedicated to the institute of judgment by default. In the first subchapter the individual preconditions for the judgment by default issuing are being discussed in details, whether the formal or the material ones. This subchapter is divided according to these individual preconditions. The second subchapter deals closely with the defence of the defendant consisting in the proposal of cancellation of the judgment by default.

The third chapter is aimed at the ordinary and extraordinary remedial measures which are used as a defend against incorrect judgments by acknowledgement and judgments by default issued by the first degree courts. The opening subchapter deals in details with the possibility of filing the ordinary remedial measure, known as appeal, including the possible reasons for this appeal. The second subchapter concerns the option of trial restoration based at a legal action which aims, as well as other extraordinary remedial measures, against the legally effective decision.

The penultimate chapter processes and comments on the selected statistical data collected by the Czech Justice Department since 2008. Besides other things the author compares the numbers of cases terminated by the judgment by acknowledgement and judgment by default, the development of this data in time, according to territorial division, its participation on the total number of the finished cases or in dependency on

the matter of a trial. And so an interesting overview of a real usage of both researched institutes is being created.

The closing chapter deals with present problems of the current legislation on judgment by acknowledgement and judgment by default and presents its possible and convenient conceptual solution, considering the opinion of jurisprudence presented whether in the professional literature or judicature. Initially the issues of the institute of the fiction of acknowledgement and its suitability and the constitutional conformity is being discussed, which seems to be highly disputable. The legislation on judgment by default is later put under author's analysis from the point of view of the fulfilment of the constitutional law principles, mainly concerning the principle of equality of parties, while as well as in the case of institute of fiction of acknowledgement, even in this case the solutions that should contribute to an improvement of the preservation of the trial participant's rights are being outlined.