

Status and activity of private executors

The theme of execution and institution of private executors is still very actual nowadays. Partly this is due to enforcement of adjudications by courts lurking in the time when our law provides another possibility to settle a claim by private executors and partly this is caused by last amendments to our legal regulations of executions and executors.

One of the important state's tasks besides finding the law between parties which are in dispute is to assure that admission of plaintiff's demand will be realized. The state provides two ways to obtain this claim in Czech Republic. This system is primarily based on the state courts, but inefficiency and disadvantages of this system led in the year 2001 to new legal regulation which brought institution of private executors to our law. Henceforth, everybody can choose how to achieve fulfilment of judgment debt.

The new system of private executors is more efficient and flexible, which mean that particular cases are solved out in shorter time with identical or even preferable result as by enforcement of judgment by court. For this reason more and more people avail oneself of the services of private executors. State delegates a part of its authority to executors who exercise the executions as a business activity, so they are personally interested on execution. The private executors also retain a lot of competencies, which make them mightier than court is in some ways. This power is needful to effective exercise of their profession, but on the other hand there is still a real menace that this power will be abused. Hence legislator is faced with basic challenge to provide enough authority for efficient exercise of execution by private executors and ensure sufficient level of rights protection at the same time.

In the first part of my work I tried to make a survey of requirements to exercise this profession and render the meaning of some important requisite terms closely connected with institution of private executors. Most extensive part is then dedicated to interpretation of execution how it is regularized by act number 120/2001 Sb. Simultaneously I point out main dissimilarities between execution and enforcement of judgment by court, because for the right choice which of these two possibilities take up, it is necessary to know what advantages and disadvantages each of them has. The last part of my graduation theses describes generally latest amendments bringing important changeovers to current legal form.

The concept of private executors is not new in other European countries. It brings new possibility for debt claims. For future there is still question of binary Czech execution system. It may be expected that over time this agenda will be completely committed to private executors, so this topic will be yet more actual than now.