

Abstract

Selected problematical aspects of enforcement proceedings

With reference to the social changes after 1989, the number of the litigations has significantly grown. Owing to this growth, the delays in proceedings started to occur, both in discovery and enforcement proceedings. As a result, the Act No 120/2001 Coll., on executors and executory activity (executory codex) was enacted, which came into legal force on 1 September 2001. The new legal profession, judicial executor, has been constituted by this act. The main job of this profession is to execute the executable titles.

The objective of this thesis is to review some problematic aspects caused by the application of the executory codex. The emphasis is put on the wording of the act, juridical interpretation, as well as the professionals' discussion. The thesis consists of two main chapters.

The first chapter deals with matters regarding the legal state of the juridical executor, as the newly constituted legal profession, and relates to the structure of the Executory chamber of the Czech Republic, which is a self-government organization associating juridical executors. The main conclusion of this part is that the juridical executor is not the direct part of the juridical power. However, he is the private businessman, who is in the position close to the proxy of the beneficent. Within the contemporary legal professions, he is in very similar position to a notary. The government of the Czech Republic is decreasing the number of the juridical executors. Restricted amount of the juridical executors is not able to perform their job efficiently, hence it would be advisable not to restrict the number of the juridical executors.

The second chapter deals with problems of adequacy of the execution, questions related to option of distraint of the spouse's bank account, with option to cancellation of the bank account in an monetary institution while execution. The juridical executor's responsibility for damage, disciplinary and criminal liability are not set aside. The evaluation and solution of the question of the dismissal and matters of costs of the executory procedure are dealt.

Notwithstanding the considerable problems, which were caused by the juridical executors' activity, the efficiency of enforceability of the laws has been improved.