

ABSTRACT

The title of this diploma thesis is “Provisional Measure in International Procedural Law“. The purpose of provisional measures is a preservation of the rights of each party pending the settlement of the dispute which means pending the definitive decision in the case. It helps to protect the object of the litigation and to maintain in its state as it existed on the initiation of the proceedings. Furthermore, the function is a preservation of the integrity of the final judgment and the prevention of violent self-help. I chose the issue of provisional measures as a topic of my diploma thesis because it is an essential instrument to enable any international court or tribunal to perform its functions. The aim of the thesis is to analyze law containing provisions relating to order of provisional measures and practice of particular international courts and tribunals.

The diploma thesis is divided into five chapters. First chapter defines provisional measure and explains its using in International Procedural Law. Second chapter focuses on the exercise of provisional measures in international arbitration especially in respect to proceedings before the International Centre for Settlement of Investment Disputes. On the other hand, third part deals with proceeding concerning provisional measures before two standing judicial bodies with universal jurisdiction – the International Court of Justice and the International Tribunal for the Law of the Sea. Fourth chapter describes terms jurisdiction *prima facie*, urgency and irreparable prejudice which were created by judicial practice and which are closely linked with provisional measures. The purpose of last part is to outline the regulation of provisional measures in the Czech Law.

After studying the issue, I have realized that article 41 of the Statute of the International Court of Justice which was an inspiration for further provisions relating to provisional measures in International Procedural Law is not suitable particularly because of the vagueness concerning its binding force which had to be solved by the judicial practice of the International Court of Justice. On the other hand, article 290 of the UN Convention on the Law of the Sea seems to be appropriate provision of provisional measures in International Law.