

Group actions in Czech procedural law

Summary

The thesis deals with an issue of group actions, which is a legal instrument of collective protection of private rights in civil proceedings. The aim of this thesis is to analyze this procedural institute, to point out shortcomings of current legislation and to propose its acceptable solution.

The thesis is divided into three relatively independent sections. The first section focuses on theoretical basis (including a brief outline of the historical development) and defines basic terminology used in the thesis. Then it describes the most general division of the collective enforcement mechanisms into a group action and a representative action. The second section concentrates on legislative schemes of group actions in certain foreign jurisdictions. Specifically, it deals with a legal conception of class action in the legal system of the USA, where it is applied as a kind of an opt-out group proceedings (group members, who does not agree with adjudication of their claims, may opt-out), then it deals with opt-in group proceedings in Sweden (group members can be required to enter the suit individually) and finally it describes a German model proceedings in capital market disputes, which represents a compromise between individual and collective proceedings. The third section is dedicated to analyse of current legislation of group actions in the Czech Republic, particularly the evaluation of the current legislation of the collective proceedings and consideration of the conclusions *de lege ferenda*.

Although in foreign jurisdictions the group proceedings are one of the most complicated procedural institutes, in the Czech procedural law it is deduced only by interpretation. Current provisions of the Czech Civil Procedure Code (§ 83(2) and § 159a(2)) create collective procedure by extending the *res judicata* and *lis alibi pendens* in the fields of unfair competition, consumer protection and corporate matters. I criticize this model of group proceedings, because it does not meet the requirements of due-process standards (group members are very limited in options of participations in the suits). In conclusion of this thesis I recommend some drafts of changes to remove described defective parts of current legislation, which could contribute to modernizing the civil procedure.