

## RESUMÉ

**„Parties of execution procedure – selected issues “**

This thesis is engaged in execution proceedings, especially in several aspects of procedural position of litigants – the beneficiary (entitled subject) and the compulsory (forced subject). In kind of execution the execution on money judgement only is analyzed in this thesis. The primary aim of this thesis is to concentrate on selected situations, in praxis of executions often solved and to compare the real solutions to the ideal-supposed one. Within this comparison are briefly mentioned changes of law text effectual since 1.11.2009, that – in my opinion – changed the character of execution in the significant range.

First and Second Chapter contains the objective and general introduction to execution proceedings, its litigants, their procedural positions and comparison of relevant differences between the execution realized by executor and per curiam. This part is finished by short historical excursion.

The following two chapters are focused on particular litigants. Chapter three observes the matter from the position of beneficiary, whereas main accent is put on the chosen tasks, inseparably connected with the position of beneficiary, that are solved very often in common course of executions. The reason of such kind of specialization is that within positive legal regulation in Czech Republic the recovery of debts through the execution proceedings cannot be considered as troublefree. To the contrary to the foregoing chapters is this one focused directly on procedural position of beneficiary in course of the execution proceedings, e.i. within particular stages. Legal conditions for writ of execution are analyzed in more detail afterwards. The treatise about selected defects of execution title follows. Main consideration is given to the identification of the procedural parties and its defects. These are evaluated in respect of its consequences for execution proceedings. Following part mentions several instruments given to the beneficiary to protect his position, or several instruments given to defend his position by law (with no activity of beneficiary needed). Afterwards the rather detailed description of relationship between beneficiary and executor during whole execution proceedings is

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given. Because of its frequent and not uniform solution, chosen duties of these subjects are submitted to a detailed analysis. The chapter is closed with treatise on conflict of execution and other kinds of civil proceedings. Reason of such aiming is the substantial importance of the conflict and its result for execution proceeding and its continuation. The conflict is analyzed in relation to the inheritance proceeding, bankruptcy and another execution procedure. Results of individual conflicts are evaluated considering the necessity discontinuance of execution or extinction of the debt.

Another Chapter is focused on the compulsory subject and his procedural position. The introduction describes likewise Chapter four the general characteristic features of the procedural position. As reaction on the substance of execution – absence of voluntary satisfaction of duty – effects of satisfaction divided in dependence on its time are described. Thereinafter the instruments of defense and protection of the compulsory's procedural position are enumerated. Especially subhead 5.5 deserves an attention, because of describing very important and "powerful" instruments of defense of the compulsory. Afterwards the brief description of the most often distinctive activities of the obliged party, that are able to influence execution procedure, is given. Mentioned are activities consisting in wasting the purpose of proceedings. Legal instruments, by applying of which the beneficiary is able to protect himself from such activities, are described in subhead 4.5. In the same way, as in chapter dealing with beneficiary, is described the relationship of the compulsory to the executor. Described are selected aspects of this relationship, especially procedural duties of the compulsory subject and possibilities of reaction to the executor's procedural misconduct.

Whole thesis is not to be any comprehensive description of rights and duties of the procedural parties. The main idea of this work is to specify in praxis very often occurred and solved problematic situations and to give to the parties some more helpful information how to use law to protect themselves. The text above also compares ideal and legal solutions in contrast to execution praxis and also tries to advice both parties how to make execution procedure as favourable as possible for them.