

Abstract

The theme of my thesis is to compare legal regulations of two fundamental institutions used for compulsory fulfilment of obligations. It comprises the execution of a decision pursuant to Part Six of Act No. 99/1963 Coll. Civil Procedure Code, and the execution pursuant to Act No. 120/2001 Coll. On Executors and Execution Proceedings. The purpose of the thesis is to compare the fundamental legislation with emphasis on their differences and investigating the advantages and disadvantages of both procedures. This is a hot issue, particularly with regard to the forthcoming amendments to both institutions. The work focuses on the legal regulation in force, but it also offers a comparison with the amendment mentioned above, which is going through the legislative process in Parliament of the Czech Republic at the time of preparing this thesis.

The thesis is divided into eleven chapters. The first chapter gives an introduction to the problems of both proceedings and presents the fundamental legal regulation and their mutual relationship. The next two chapters deal with the position of an executor in execution processes and the role of a court in the execution of both decisions and executions. Chapters four to ten deal with the individual phases in the two proceedings. It is especially the alteration to procedure openings, including possible proceedings of court or court executor before the procedure opening in chapter four. Chapter Five concerns itself with the general procedure regulation of the proceedings already instituted and in particular it addresses the legal consequences which result from commencement of proceedings and discusses the special procedures for the execution, such as fieri facias or determination of property. The following chapter then successively analyses various approaches to implementing the execution or the execution of a decision, namely the methods intended for recovering financial obligations and then methods used to recover non-monetary obligations.

Due to the subsidiary treatment in the Executory Code, this chapter concentrates mainly on the arrangements for the decision in Civil Procedure Code, indicating differences in executions. The seventh chapter compiles legal regulations of the executions of decisions in the event of minor children and domestic violence because of their specificity and particularity compared with previous methods. The eighth and ninth chapter compares the legislation of adjournment or stay of both executions focusing again on variations in the legal regulations. The tenth chapter deals with the costs of the execution of a decision and execution proceedings. In this chapter I have tried to include a tendency to reduce the costs of executions, which is obvious in recent decisions. The last chapter analyses the amendments to the Civil Procedure Code and the Executory Code mentioned above, it outlines the fundamental changes they bring. In the conclusion I also present my personal opinion on the current legislation and the benefits of the amendments, if they are adopted.