

## **Instruments of preparatory stage of civil proceeding**

### **Abstract**

Preparatory proceeding is one of the stages of civil procedure and involves complex of procedures granting the presiding judge an opportunity to clarify the fundamentals of dispute, both legal and factual, to acquaint parties to the suit with anticipated course of legal proceeding and to secure efficient proceeding.

One of the most distinctive features of the Czech civil proceeding is predominantly discursive and lengthy manner in which judges approach the case management. The preparatory stage plays critical role in determining the actual length and overall course of civil proceeding. Contrary to majority of other modern legal systems Czech law, legal doctrine and practise of the courts still somehow neglect the above mentioned importance of this stage. Moreover, this fact is admittedly linked to Czech system of civil proceeding still mainly embracing so called piecemeal type of civil proceedings where the pleading stage is followed by several short hearings where evidence and arguments are collected, instead of main hearing model widely accepted by countries taking significance of preparatory stage into account.

The goals of this essay were to evaluate different instruments that Czech civil procedure law provides the judges during preparatory stage, to point out the deficiencies of current system, to find out a reason behind marginalization of this stage, and to propose alternative system.

The introductory chapters introduce the concepts and assumptions behind preparatory stage of civil proceedings as well as evolution of the relevant legal regulations going back to legal system of Austria-Hungary. Following chapters deal with individual instruments of actual preparatory stage with focus on different calls for defendant's statement and preparatory hearing. Further, chapters introducing comparison of relevant German legal regulations and Principles of Transnational Civil Procedure elaborated by UNIDROIT are included. Concluding chapter offer author's views on suggested form of new civil procedure code and on how to modify current system of preparatory proceeding.

Based on outcomes of the essay it is established that although current legal regulations of preparatory proceeding are far from being sufficient and comprehensive, major obstacles preventing effective and efficient civil proceeding

are inability and reluctance of courts to approach preparatory phase of civil proceeding with adequate endeavour. Nonetheless, no further noticeable advance in the matter of acceleration of civil proceeding can be achieved without adopting new system of civil procedure or at least significantly enhancing the existing one.