

# **Judgement by acknowledgement**

## **Abstract**

The topic of this diploma thesis is judgement by acknowledgement, a decision on the merits commonly used in practice, which is supposed to speed up the trial and make it more efficient. The thesis deals with both the judgement by acknowledgement issued under the express consent of the defendant and the so-called fiction of acknowledgement of the claim by the defendant, on the basis of which the judgment by acknowledgement can also be issued. The aim of this thesis is not only to provide comprehensive explanation of the process that precedes the issuance of the judgement by acknowledgement, but also to describe the importance of this judgement, its historic development on the Czech territory and to compare its national legislation with the Slovak one. This paper also highlights some problematic aspects of this judgement and offers possible solutions. The thesis is divided into six chapters.

Chapter One deals with the historical development of the judgement by acknowledgement on the Czech territory. In particular, it focuses on establishing a judgement for recognition in to the Czech legal system on the edge of the 19th and 20th century and its reintroduction into the civil process in 1993 - 2009, when the judgement by acknowledgement acquired a form that remained to this day.

Chapter Two focuses on the fiction of acknowledgement. The first subchapter deals with the fiction of acknowledgement during the preparation of the trial where much attention is paid to the so-called qualified call for expression and its associated effects, including the current case law of the Constitutional Court. The second subchapter then discusses the fiction of acknowledgement of a claim in a preparatory hearing. The conditions on the basis of which the preparatory hearing can be ordered and possible recourse to the parties for failure to appear are stated there.

Chapter Three is aimed at a judgement by acknowledgement issued by express consent of a claim by the defendant. It deals with admissible forms of acknowledgement during court proceedings, its formalities or its use in court of appeal or The Supreme court proceedings.

Chapter Four consists of analysis of the judgement by acknowledgement as such. There are elaborated the particulars of such a judgement, the admissibility of its issuance, the comparison with the default judgement and the remedies that can be applied against it.

Chapter Five compares the Czech regulation of the judgement by acknowledgement with the Slovak one, both in regards to the past and the current one, which was introduced into the Slovak legal system as a part of the recodification of the entire civil procedure in December

2018. The author focuses on the most important differences and assesses their potential advantages and disadvantages compared to the Czech regulation.

Chapter Six describes the author's opinion on possible changes to the problematic aspects of the judgement by acknowledgement. In particular, the author refers to the possibility of applying a default judgement instead of a judgement based on a fiction of acknowledgement, as is the case abroad. Furthermore, it deals with the relatively lenient approach of the courts towards the requirements of the reply to the so-called qualified call for expression. Here, the author provides possible solutions that could lead to clarification of the institute of judgement by acknowledgement, as well as to the actual fulfillment of its purpose.

### **Keywords**

Judgement by acknowledgement, fiction of acknowledgement, qualified call for expression.