

# **Dispositional acts of the parties to the civil proceedings**

## **Abstract**

The diploma thesis deals with the issue of dispositional acts of the parties to the civil proceedings. The thesis therefore focuses on individual dispositional acts in contentious and non-contentious proceedings and on the displays of declaratory principle that affect the civil proceeding through these acts.

The aim of the thesis was to analyze the current Czech legal regulation of dispositional acts using not only valid legal regulations, but also professional literature, professional articles and case law. With regard to the current case law this thesis also concentrates on selected issues related to the application of dispositional acts in procedural practice, it outlines some potential problems of interpretation and takes a stand on them.

The first chapter of this thesis deals with the declaratory principle, primarily with its essence and influence of contentious proceedings. It describes two main aspects of disposition in proceedings and explains the inclusion of this principle in the typology of principles specific to individual branches of the civil proceedings.

The second chapter contains an explanation focused on the issue of participation in civil proceedings and clarifies who can be considered a participant eligible to perform dispositional acts in proceedings. For this reason, this chapter first analyzes the individual preconditions of participation and then describes the parties to the contentious and non-contentious proceedings, while also pointing out the differences between them.

The third chapter deals with the theoretical concept of dispositional acts, their classification among procedural acts, common features and peculiarities that are typical for dispositional acts.

The fourth chapter is the main and most extensive part of the diploma thesis, as it focuses on the specific dispositional acts of the parties to the contentious proceedings. A total of seven subchapters deal with the civil action, the withdrawal of action, the motion for a default judgment, the amendment of the statement of claim, the counterclaim, the recognition of the claim by the defendant and the settlement. In each of the subchapters, the current legal regulation is first described, emphasizing the main features of the given disposition. Finally, second part of each subchapter deals with specifics of individual acts, issues addressed in connection with case law, or with the different views of processualists on selected issues. Last but not least, for each disposition act, the forms of disposition as well as its scopes are also taken into account.

The fifth and also the last chapter of the diploma thesis is devoted to the issue of dispositional acts of the parties to the non-contentious proceedings. This chapter clarifies the exceptional nature

of the declaratory principle in non-contentious proceedings, as well as the special nature of this type of proceedings. After that the exposition in particular subchapters deals with the dispositional acts of the motion to initiate proceedings, the withdrawal of the motion, the amendment of the motion and the settlement on the subject of the proceedings.