

Methods of discontinuance of the enforcement of judgement (execution)

Abstract

The present thesis deals first of all with the analysis of the individual grounds for stopping the execution under the provisions of Sec. 268 (1) (a) – (h) of the Code of Civil Procedure, with attention aimed at (h), which is most influenced by the development of case law, with a focus on executions conducted on the basis of ineligible enforcement titles, which are arbitral awards. The aim of this paper is to carefully analyse these general grounds for putting an end to the execution, as well as the new grounds for stopping the execution brought about by the amendment to the Enforcement Code, which was implemented by Act No. 286/2021 Coll. The purpose of my work, however, was also to point out the current issues in the field of execution, in particular the stopping of execution after it has already ended in recovery, as well as the stopping of execution again on priority grounds after the execution has already been stopped on non-priority grounds, which could have brought less favourable legal effects to the debtor.

The first part of the thesis, in which in the first chapter I introduce the institution of the termination of execution, as well as in the second chapter the motion for termination of execution, which initiates the procedure for termination of execution and the basic rules that accompany this procedure, is more theoretical and descriptive. The third chapter is also rather theoretical, in which I present the individual grounds for stopping the execution pursuant to Sec. 268 (1) (a) – (h) of the Code of Civil Procedure, as well as the fourth chapter, in which I shed light on the new grounds for stopping the execution, which were brought to us in particular by Act No. 286/2021 Coll.

The final part of the thesis, that is the fifth and the sixth chapter, is more practical and is based on an analysis of the extensive case law of the Supreme Court and the Constitutional Court. I focus here on the issue of stopping already completed executions, as well as on the different legal effects of individual grounds for stopping an execution and their competition with each other. I have based most of my work on the practice in the seventh, that is the last chapter, in which I concentrate on the purposeful and deliberate practices of creditors and bailiffs that are contrary to the law and which are currently occurring.

Klíčová slova: discontinuance of execution, arbitral award, enforcement proceedings