

The proceedings in status matters of legal entities

Abstract

The diploma thesis deals with the issue of proceedings in status matters of legal entities, which are conducted according to the procedural regulation contained in the Act on Proceedings in Matters of Non-contentious Jurisdiction. The diploma thesis uses a descriptive method of these proceedings, with elements of comparison.

In its introduction, the working hypotheses are set out, which I aimed to answer in the conclusion by examining the issue. These working hypotheses relate to the question of comparison of the institution of the legal status of legal entities used by substantive law versus the concept of legal entities' status matters used by procedural law. The next working hypothesis is the question whether proceedings in status matters of legal entities are non-contentious proceedings. The last working hypothesis concerns the question whether the decisions given by the courts in those proceedings are merely constitutive or also declaratory.

First, the theoretical level of the thesis deals with the definition of the basic concepts that are closely related to the topic of the thesis and which are further elaborated in the thesis or are important in terms of answering the hypotheses. First of all, the thesis defines the basic theoretical differences between adversarial proceedings within the civil justice system, i.e. contested and non-contentious proceedings. Then, with regard to one of the stated hypotheses, the thesis defines the nature of constitutive and declaratory decision on the merits, as well as a description of legal entities, as their matters are decided in the described proceedings. Finally, the thesis defines the content of the concept of status matters of legal entities from the perspective of several authors from the professional community and the interpretation of the Supreme Court of the Czech Republic. The thesis also examines and compares how the concept of status matters is understood by substantive and procedural law, as this concept is understood differently by them.

Subsequently, the thesis focuses on the development of the legal regulation of proceedings in status matters of legal entities, starting from the regulation contained in the Code of Civil Procedure before the adoption of the new procedural regulation. The core of the whole thesis is a description of the current legal regulation of proceedings in status matters of legal entities under the Act on Proceedings in Matters of Non-contentious Jurisdiction, its relationship to the Code of Civil Procedure, while the close connection of these proceedings with substantive law is also pointed out. The thesis also describes various proceedings relating to status matters of legal

entities, which are evidence of the variety of issues that are discussed and decided by courts within the framework of the procedural legal regulation of these proceedings under the Act on Proceedings in Matters of Non-contentious Jurisdiction.

The thesis also compares and describes the legal regulation of proceedings in status matters of legal entities in the legal systems of neighbouring countries, namely the German, Austrian and Slovak legal systems, focusing on their similarities and differences with the Czech legal system.

The conclusion of the thesis summarizes the basic findings of the thesis. At the same time, the conclusion answers the working hypotheses set out in the introduction of the thesis, which I decided to examine during its elaboration. By examining the issue within the framework of these hypotheses, I have concluded that a significant majority, but not all proceedings in status matters of legal entities concern the legal status of legal entities. I have also concluded that proceedings in status matters of legal entities are by their nature non-contentious proceedings and, finally, that decisions issued in proceedings in status matters of legal entities are not merely constitutive.

Key words

The proceedings in status matters of legal entities

Non-contentious civil proceedings

The Act on Proceedings in Matters of Non-contentious Jurisdiction