

Preliminary injunction

Abstract

This thesis deals with the Czech legal regulation of preliminary injunction in civil proceedings, by which the court ensures the protection of the plaintiff's subjective rights through the imposition of a temporary obligation in order to prevent harm to these rights. The thesis examines the legal regulation both in terms of whether it enables the purpose of the instrument to be properly fulfilled and whether it balances procedural rights and obligations in a way that respects the rights and legitimate interests of all persons, in particular the parties.

In order to achieve this objective, the thesis analyses what the purpose of the preliminary injunction is and then examines the various parts of the legislation in terms of their compliance with that purpose. It also examines situations where the legitimate interests of individuals conflict with each other or with the purpose of the preliminary injunction itself. It also assesses the quality of the legislation in the light of the fundamental principles that should govern this type of interim measure.

This thesis is divided into two main parts. The first part deals with preliminary injunctions in general. In addition to examining its principles, types and historical development, which allows for a better understanding of the preliminary injunction as a whole, the first part analyses the purpose of this instrument, which is the value examined under the main objective of the thesis. The second part then analyses the different aspects of the legal regulation, i.e. the formal requirements for the procedure, the two main grounds for ordering an preliminary injunction and then the different stages of the procedure for ordering it.

As a result of the analysis, it is found that the legislation respects the purpose of preliminary injunction well, but often does not allow the court to adapt the procedure flexibly to the situation. It also reveals shortcomings in the legislation, such as the ambiguity of certain provisions or the choice of an unsystematic or otherwise inappropriate solution.

Key words: preliminary injunction, purpose of preliminary injunction, protective instruments