

Abstract

The dissertation focused its attention on the principle of the concentration and its application in civil proceedings.

The principle of the concentration and its issues represented after the amendment of Civil Procedure Code No. 99/1963 realized by Act No. 30/2000 Sb. and the by Act No. 7/2009 Sb. are highly actual topic in the civil practice and in the theory of civil procedure.

The dissertation attempts to explain the positives and the negatives of the principle of the concentration in civil proceedings, seeks and finds its adequate place in the civil procedural law in order to achieve an effective and quick protection of endangered or infringed subjective private rights.

The theoretical basis of the dissertation consists of definition of the essence of the principle of the concentration, its object and mainly its purpose along in the system of the principles regulating civil proceedings at all.

The modern civil proceedings should be based on the principle of the concentration in order to ensure the effective protection of endangered or infringed subjective private rights provided by the courts. The individual elements and phases of applying the principle of the concentration in civil proceedings should be appropriately chosen in civil proceedings. The individual elements of the principle of the concentration should be represented in a combination of legal concentration together with the judicial concentration. This access is in the conformity with international experience which support the increasing of the active role of the courts.

The dissertation is composed of eleven chapters; some of them are divided into individual subchapters.

First chapter generally defines the position of the principle of the concentration in the framework of civil proceedings at all.

Chapter Two is divided into three subchapters, which explain the theory of the principles of the concentration, concretely its essence, its object and mainly the purpose which fulfil in civil proceedings.

Chapter Three is divided into five subchapters. Each of them describes the relationship between the principle of the concentration and the selected main principles of civil proceedings: at all mainly to the principle of disposition, to the accusatorial principle of hearing, to the principle of discretion in weighing evidence, to the principle of formal and material truth and last but not least to the uniformity procedure principle.

Chapter Four is divided into six subchapters. They contain a brief historical overview of the development of the principle of the concentration on the Czech territory from the Middle Ages to the present.

Chapter Five deals with the essence of different types of concentration: the concentration set down by the law (so called legal concentration), further divided into general (universal) legal concentration and special legal concentration, or set down by the court (judicial concentration). The combination both of these concentrations is possible.

The sixth chapter analyses in detail the individual elements of concentration in the valid Civil Procedure Code. In this connection is the special attention devoted to the institute of qualified call for a written statement of the defendant (§ 114b OSŘ) and the institute preparatory hearing (§ 114c OSŘ). The adequacy of the judgment of recognition is in the theory controversial investigated. The principle of the concentration in the first instance proceedings is investigated with close regard of the nature of the duty of the court to instruct properly the litigants (in the theory is controversial the nature of the court's duty to instruct properly the litigants, is it the instruction in the level only procedural or already of the substantive level).

Chapter Seven deals with the principle of the concentration in the valid appellate legislation and its projection in to the so – called incomplete appellation system.

Chapter Eight, after clarification of the hybrid nature of proceedings under Part Fifth of the Civil Procedure Code, deals with the individual elements of the principle of the concentration applicable in this of Civil Procedure Code.

Chapter Nine deals with the principle of the concentration in certain special cases: the payment order, an electronic payment order, a European payment order and order to pay a bill (check). In this connection the special attention is focused on the possibility to link the payment order with the above mentioned qualified call. With regard to the bill (check) proceedings, the dissertation thinks whether the valid three-day period for the objections is adequate in the consumer disputes.

Chapter Ten compares the principle of the concentration in the Czech procedural law with two foreign legal regulations, concretely Slovak and Spanish regulation. Especially Slovak civil proceedings which had the same legislative basis as the Czech one and which get during the further development some special features offers the opportunity to compare. The Slovak regulation represents one of the sources of inspiration for the reflections on the Czech regulation concerning of the principle of concentration.

In the final chapter the dissertation on the basis of the rich experience of the Czech courts with the principle of the concentration but also with the connection of the adoption quite new Czech Civil Code recommends to adopt a new Civil Procedural Code and at the same time the adoption of the new regulation of the principle of the concentration. The principle of the concentration in a new civil procedural law should be based on a balanced combination of some experienced elements of the valid legal concentration (e.g. the qualified call and preparatory hearing) appropriately supplemented by some new elements of the judicial concentration. This combination allows to courts mainly to get the complete facts of each case as the

reliable basis for decision of courts and at the same time does not defend to the quick hearing and quick decision.