

FRINTOVÁ, DITA. MEZITÍMNÍ A ČÁSTEČNÉ ROZHODNUTÍ
VE SVĚTLE JUDIKATURY A EVROPSKÉ KOMPARACE
[INTERLOCUTORY AND PARTIAL DECISIONS IN THE CONTEXT
OF CASE LAW AND EUROPEAN COMPARISONS]. PRAHA:
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The author has written a publication entitled *Interlocutory and Partial Decisions in the Context of Case Law and European Comparisons*, published by Wolters Kluwer Czech Republic in 2022, comprising 320 pages. The publication deals with two decisions issued in civil court proceedings – an interlocutory judgment and a partial judgment.

Both judgments are exceptions to the principle that a judgment should exhaust the entire subject matter of the proceedings, both in theory and in practice – their frequency is relatively low (cf. p. 2). Their application in a particular case is, moreover, at the discretion of the court, in spite of the fact that this is within the limits defined by their legal provisions (cf. p. 2). The main objective of the publication is to cover the subject of interlocutory and partial judgments in a comprehensive manner, especially by taking into consideration the case law and European comparisons, usual in traditional civil procedure institutions (cf. p. 273). The author's effort to grasp the whole issue made a precise conceptual definition of both types of judgments necessary; however, this could not have been done universally for all the legislations researched, but it was necessary to do it separately in the analysis of a given legal system.

In terms of systematics, the publication is divided into nine (9) main chapters, including an introduction and a conclusion. The first (introductory) chapter focuses on the background to the chosen issue, the description of the main conceptual framework, the basic definition of the objectives, structure, and methodology of the publication (pp. 1 to 8). The second, third and fourth chapters aimed to help broaden the reader's perspective on the historical development of the issue (pp. 9 to 40). A detailed analysis of the current legislation contained in Act No 99/1963 Sb., Civil Procedure Code, as amended, is the subject of chapter 5 (pp. 41 to 68). There, the author also considers the situation of partial and interlocutory judgments for recognition, stating that the provisions of Article 153a of the Czech Code of Civil Procedure do not constitute a special type of partial and interlocutory judgment which would require, as *lex specialis*, the introduction of different principles for its application (sub-chapter V.2). This provision can be understood rather as emphasizing the fact that a partial or an interlocutory judgment may be issued even if the defendant recognizes the claim (in whole or in part) (cf. p. 49). The publication does not omit to draw attention to the "fiction" of the defendant's recognition of the claim (sub-chapter V.3), the exceptions to the possibility of issuing a partial or interlocutory judgment (sub-chapter V.4), or the formalities of both types of judgment (sub-chapter V.5). The substantive intent of the future Civil Procedure Code, which is the matter that the author is focusing on in chapter 6 (pp. 69 to 126), could not be left

aside. The analysis of the substantive intent in this regard has shown that civil courts should issue partial and interlocutory judgments as soon as the required conditions for their issuance are fulfilled. In the case of a partial judgment, the possibility is mentioned of not issuing that judgment if it is not expedient in the facts of the matter (para 315 of the substantive intent); in the case of an interlocutory judgment, the substantive intent does not set expediency as a condition for the court's procedure (para 316 of the substantive intent). This is a difference to the current legislation, which treats partial and interlocutory judgments uniformly and provides for both to be made conditional on the expediency of such a procedure (cf. p. 275). However, in comparison with the currently applicable Code of Civil Procedure, despite the changes made to the wording and reasoning of paragraphs 315 and 316 of the substantive intent of the future Civil Procedure Code, there are no fundamental changes to the conditions for the issuing of a partial or interlocutory judgment. The author's reflections are preceded by chapter 7, which is concerned with the Model European Rules of Civil Procedure in relation to the subject under analysis (pp. 127 to 148), the aim of which is not to offer a detailed legal framework, but rather a certain minimum standard as a basis for modern European procedural rules (cf. p. 277). In Chapter eight, a detailed comparison with selected foreign systems was subsequently provided (pp. 149 to 272). The last (final) chapter summarizes the results of the author's analysis of the topic covered by the publication (pp. 27 to 281). The chapters of the monograph are logically connected to each other, the publication forms a compact entity.

The concept of partial and interlocutory judgment varies in different legal systems. Thus, analyses of the Slovak legislation were proposed, which tries to follow the modern trends of civil procedure and that is aware of the practical problems caused by the restrictive approach of Section 152 of the Czech Code of Civil Procedure (sub-chapter VIII.1), the Austrian procedural regulations, which maintains the traditional approach to the two types of judgments (sub-chapter VIII.2), and the German legislation, which considers that decisions issued before the final judgment are a way of speeding up proceedings and recognizes the advantages of such a procedure in terms of optimizing procedural economy (sub-chapter VIII.3). In the Polish procedural rules, we may find a brief regulation of both partial and interlocutory judgments, which is very similar to the current Czech legislation (sub-chapter VIII.4). The procedural legislation of the Principality of Liechtenstein is based on Austrian legislation, which it practically follows, also in terms of decision-making and the types of judgments that can be issued in civil court proceedings (sub-chapter VIII.5). It even adopts Austrian doctrinal interpretation and decision-making practice, but there are also relevant decisions of the Liechtenstein courts (cf. p. 262). Finally, the Swiss procedural rules are also addressed, where the civil court is entitled to issue any decision, whether partial, interlocutory, or final, it deems appropriate at the time, provided the legal prerequisites are satisfied (sub-chapter VIII.6). The author is convinced that the experience of foreign legal systems, however familiar to our legal context by the tradition of long-term common historical development, or at least geographically, could offer a solid basis for the expected discussion on

the re-codification of Czech Code of Civil Procedure, both from the perspective of legal science and the legislative process.

According to the above, it may be gradually summarized that the author has not only presented a comprehensive analysis of the Czech legislation on interlocutory and partial judgments, but also presented a broad comparison of these institutes, including relevant foreign case law. The stated objectives and hypotheses also determined the methodology of the thesis, as the author chose the proven logical procedure from general to detailed, from older to newer. The logical methods of deduction, induction, generalization, and classification were used in the analysis of legal rules, and the comparative method was applied in the analysis of the foreign legal regulations. However, other methods were also used. The research with sources can be described as an extremely meticulous, particularly with a wide range of case law, not only Czech, but especially foreign jurisprudence.

The author has prepared a publication that is rightly described as significant both in its subject matter and in the way it is handled. The main objective has certainly been fulfilled. The publication is therefore a very useful contribution to the legal field of interlocutory and partial judgments, which may well serve for both practical and pedagogical purposes.

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