

DOCTORAL THESIS SUMMARY

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Subject: Judgement Immediate Enforceability Order as a Mechanism Increasing Efficiency of Civil Proceedings

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Judgement enforceability means that a judgement may be carried out by way of execution. According to the Polish civil procedure, enforceability is generally a feature of final judgements which make awards. However, in some cases, such judgements may be enforced before they become final – it is possible through the immediate enforceability order.

This thesis is focused on the issue of changes which could be introduced in structural elements of the judgement immediate enforceability order to improve the functioning of such a mechanism. Additionally, it has been also analysed whether there exist any reasons for extension of a number of matters in which the court may order immediate enforceability of a judgement. Such deliberations have been conducted in the context of applying such a mechanism more extensively to increase the efficiency of civil proceedings. Assessments and demands *de lege ferenda* are concentrated on the possibility and rationale of wider usage of the judgement immediate enforceability order with the view to increase the protection of plaintiff's claims and to streamline and speed up civil proceedings.

Demands expressed in this thesis have been formulated as a response to problems of the administration of justice connected with the efficiency of civil proceedings, social reception of such proceedings as lasting too long and court overburdening with matters concerning appeals whose aim is only to postpone the compulsory enforcement of judgements.

This thesis consists of introductory notes, ten chapters and summary notes. Chapter I constitutes an analysis of the following terms: judgement validity, enforceability and immediate enforceability, and takes into special account relations existing between such mechanisms. Also, it outlines the history of the judgement immediate enforceability order and axiological bases for such an institution.

An analysis of the currently applicable legal regulations concerning the judgement immediate enforceability order has been conducted in Chapter II. This part presents also issues connected with limitations and exclusions of the mechanism application.

The next two chapters, Chapter III and Chapter IV, contain a comparative analysis of laws. Chapter III discusses how the mechanism of immediate enforceability of judgements rendered by courts of first instance in civil matters functions in German, Austrian, Swiss and Italian laws. Because the currently applicable solutions adopted in France are prominent, a separate chapter is devoted to such solutions. A comparative legal analysis allows to capture similarities and differences in the attitude adopted to the mechanism of the judgement immediate enforceability order, which, in turn, is essential for identifying possible directions for the development of the institution in the Polish legal order.

Chapter V analyses the immediate enforceability order from the perspective of temporary legal protection measures. They have been discussed due to the fact that the immediate enforceability order is one of such measures. Also, this part of the thesis touches upon selected principles of law in the context of application of the immediate enforceability order.

Chapter VI discusses the issue of the judgement immediate enforceability order in the context of the right to a fair trial. Modifications in the immediate enforceability order, as called for in this thesis, should take into account both national and international standards of protection of parties to civil law proceedings; therefore, they have determined the direction of deliberations made in this chapter. Additionally, this part of the thesis analyses social needs which justify the application of the mechanism.

The next chapter concentrates on effects of enforcement of judgments which include the immediate enforceability order. It touches upon the issue of claims of restitution to which the defendant is entitled if the judgement is changed or revoked. Also, it tackles important issues concerning the responsibility of the State Treasury for the effects of enforcement of a defective judgement which has been subsequently revoked or changed.

The need to make changes in the mechanism of the immediate enforceability order has been discerned in the doctrine. Chapter VIII discusses such an issue and presents a suggestion of how to modify the institution.

A change of the judgement immediate enforceability order by making the mechanism a rule, not an exception, would be revolutionary. Due its significance, a separate chapter – Chapter IX, has been devoted to the above-mentioned issue.

The last chapter of this thesis develops arguments supporting the demand for extending the number of matters in which the court may render a judgement with the immediate enforceability order and also calls for implementation of pilot solutions which would be limited to economic matters. The suggested change would increase the degree of protection provided for the defendant in civil proceedings and would contribute to streamlining and increasing the efficiency of the proceedings, and disburdening courts of second instances by decreasing the number of appeals filed against judgements rendered by courts of first instance. The immediate enforceability order prevents appeals from being filed only with the purpose of extending the proceedings and, hence, it plays an important role with this regard. Usefulness of the suggested solutions has been also mentioned and their influence on the speed and efficiency of civil proceedings have been taken into special account.

This thesis is crowned with summary notes which present conclusions drawn from the analysis of the concept of extending the application of the immediate enforceability order to include judgements rendered in economic matters. The analysis confirms that implementation of the above-mentioned concept may contribute to speeding up, streamlining and increasing the efficiency of civil proceedings.

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