https://doi.org/10.5817/CZ.MUNI.P210-9497-2019-12

Reciprocity as a Presumption for the Recognition of Foreign Decision

*Kristina Sedláková Salibová**

Abstract

The paper deals with the principle of reciprocity in the field of recognition and enforcement of foreign decisions. The aim is to ascertain the approach of the Czech legal doctrine and the rules of international procedural law in relation to this institute. The issue of reciprocity outside the European judicial area is addressed, as well as the question of whether reciprocity is a non-essential condition in the area of recognition and is interchangeable with other mechanisms affecting this issue.

Keywords

Czech Republic; Reciprocity; Substantial Reciprocity; Judgment of the Recognition Court; Refusal.

1 Introduction

In the past, the principle of reciprocity has been a leading principle in the field of international procedural law. An example of its application was the application in the recognition and enforcement of foreign decisions, or the area of providing legal aid. The existence of the European judicial area also affects this issue. The regulations confirm the principle of reciprocity in a number of regulated areas and it is, in substance, declared by them.[1]

* Masaryk University, Faculty of Law, Department of International and European Law, Veveří 70, Brno, Czech Republic, Kristina.Sedlakova_Salibova@law.muni.cz, ORCID: 0000-0003-1788-2364

1 Recognition of a foreign decision is regulated by EU law, international treaties (multilateral and bilateral) and national law. For example, regulations that do not operate with reciprocity are: Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ("Brussels I bis Regulation"); Convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ("Lugano II Convention");

However, this does not mean that, in other areas, particularly in relation to third countries, reciprocity has ceased to be up to date.[2]

The leading question can be asked to what extent, in modern arrangements, this principle has remained unchanged or, on the contrary, has been overcome. Indeed, the pressure to recognise and enforce decisions, the volume of international cooperation, etc. is an important factor for change.[3]

The purpose of the contribution is, on the one hand, to clarify the approach of the Czech legal doctrine and the rules of international procedural law

Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations ("Maintenance Regulation"); Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 ("Brussels II bis Regulation"); Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession ("Succession Regulation"); Conventions adopted in the framework of the Hague Conference on Private International Law also do not work with the principle of reciprocity, such as Convention of 1 February 1971 on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters; another convention is its successor, which was established in July this year. It is a convention which has great potential to become a key instrument for recognition and enforcement of foreign decisions, see Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (Judgments Convention); see also North, C. Conclusion of the HCCH Judgments Convention: The objectives and architecture of the Judgments Convention, a brief overview of some key provisions, and what's next? [online]. *Conflictoflaws.net*. Published on 2 July 2019, 6 p. [cit. 14. 10. 2019]. http://conflictoflaws.net/2019/conclusion-of-the-hcch-judgments-convention-the-objectives-and-architecture-of-the-judgments-convention-a-brief-overview-of-some-key-provisions-and-whats-next/?print=pdf

2 Reciprocity is still a presumption for recognition and enforcement of foreign judgments in, for example, these following legal orders Art. 282, Chinese Civil Procedure Law, adopted at the Fourth session of the Seventh National People's Congress on 9 April 1991 and amended for the Third Time on 27 June 2017; Art. 118 letter iv) of Act No. 109/1996, Japanese Code of Civil Procedure, Amendment of Act No. 36 of 2011; Art. 54 letter a) of Act No. 5718/2007, Turkish Private International Law and International Procedural Law on 27 November 2007; Art. 52 of Act No. 32/2, Liechtenstein Enforcement Act on 24 November 1971; also it is appropriate, in the context of Switzerland and the European Union, to compare Art. 65 and Annex VII of the Lugano II Convention.

3 Elbalti, B. Reciprocity and the Recognition and Enforcement of Foreign Judgments: a Lot of Bark but Not Much Bite [online]. *Journal of Private International Law.* 2017, Vol. 13, No. 1, pp. 184–185 [cit. 15. 6. 2019]. https://www.tandfonline.com/doi/full/10.1080/17441048.2017.1304546

to that institute and to show its form in the current legislation outside the European judicial area. On the other hand, it is also necessary to consider whether the reciprocity is a 'non-essential' condition in the area of procedural law. By this we mean to what extent it is substitutable by other mechanisms such as public policy.

2 Concept of reciprocity

The concept of reciprocity is enshrined in the Czech law, both in terms of private international law and international procedural law.

Zimmermann, in his monography on the system of reciprocity, states that the principle of reciprocity is important for the mutual relationship of legal systems. In the past *Huber* had formulated the term "*comitas gentium*" – *international kurtosium*. In the 17th century, Dutch lawyer *J. Voet* formulated[4] the concept of *mutual benefit – reciproca utilitas*.[5] There is a need to respect foreign nationals and foreign law. At the same time, in certain cases, the extraterritorial nature of the foreign rules has to be recognised. If the state does not respect foreign nationals and foreign legislation, it is a necessary consequence that it will also be treated in a similar way with its own nationals and with its own legal order. The consequence of these opinions, which justify the recognition of states and the application of their legal systems, is the principle of reciprocity. The principle of reciprocity has legal relevance where there is a conditional and uniform treatment of foreigners in an area where different systems of law operate.

In the literature relating to the previous Czech Act on Private International Law and International Procedural Law, an opinion is expressed on a certain similarity between the requirement of reciprocity and the primacy of international treaties. That similarity is based on the ideology of sovereignty

4 Zimmermann, M. *Mezinárodní právo soukromé*. Brno: Právník, 1933, pp. 29–34.

5 Krčmář, J. *Úvod do mezinárodního práva soukromého. Část I. propedeutická*. Praha: Bursík & Kohout, 1906, p. 53. As a consequence of the concept of Reciprocita utilita, in the French legal literature, the formation of the théorie de la intérêt des Français – where national courts will apply the laws of foreign nationals – but the principle of reciprocity is applied with regard to the material benefit of the domestic court. See Krčmář, J. *Úvod do mezinárodního práva soukromého. Část I. propedeutická*. Praha: Bursík & Kohout, 1906, pp. 55–56; Zimmermann, M. *Mezinárodní právo soukromé*. Brno: Právník, 1933, pp. 29–34.

of the states and their equality.[6] Generally, previous structure of provisions in the law, which required reciprocity, was related to a specific act of the Czech court and to the relationship with a court of another state. It may necessarily be inferred from this that there has already been a relationship between those courts which applies to any of the procedural steps set out in the law. However, this logical conclusion does not hold up.[7] It is not a mandatory condition for a foreign state to do a reciprocal act in the past. But it is sufficient that a legislation of such a state enables that a reciprocal act may occur if it has been requested.[8] In this matter, the Supreme Court of the Czech Republic concurred with the view that [translation by the author]: "*when interpreting the concept of reciprocity, it is not necessary for a foreign State to do reciprocal act towards the Czech Republic in the past (for example, recognition of a Czech decision), it is sufficient that its legislation enables the possibility that such reciprocal act would occur (i.e. the Recognition of the decision), should it be applied for in the State concerned.*" [9] In a different decision the Supreme Court of the Czech Republic dealt with the material reciprocity in relation to the state of Arizona. It has been noted that [translation by the author]: "*the mere fact that no decision has yet been issued by a Czech court in a similar case, that would be recognised by the United States Court, cannot in itself justify for a refusal of reciprocity. Such a position on a foreign decision would result only in a 'vicious circle', because a negative decision on recognition would justify a refusal of recognition in a second State and vice versa.*"[10] Reciprocity does not only have *a formal side to the matter*, but a political side as well which is of great importance and cannot be ignored.[11]

The presumption of reciprocity in respect of recognition and enforcement is a concept which was defined later in the Roman Empire and the emerging

6 See Art. 2 and also Art. 50, 51 para. 2 letter b), 56, 64 letter e) Former Czech PILA. See also Steiner, V., Štajgr, F. *Československé mezinárodní civilní právo procesní*. Praha: Československá akademie věd, 1967, pp. 17–18.

7 Steiner, V., Štajgr, F. *Československé mezinárodní civilní právo procesní*. Praha: Československá akademie věd, 1967, p. 18.

8 Bříza, P., Břicháček, T., Fišerová, Z. et al. *Zákon o mezinárodním právu soukromém. Komentář*. Praha: C. H. Beck, 2014, p. 92.

9 Resolution of the Supreme Court of Czech Republic of 18 December 2012, Case No. 30 Cdo 3753/2012.

10 Resolution of Supreme Court of Czech Republic of 22 August 2014, Case No. 30 Cdo 3157/2013.

11 Ibid.; also see Steiner, V., Štajgr, F. *Československé mezinárodní civilní právo procesní*. Praha: Československá akademie věd, 1967, p. 18.

individual Roman cities. The statutes of the cities were local rules of cities within Roman law. It was perfectly normal that the courts in one city gave their decisions to a further town with the effects of res judicata. The recognition of such decision was not based on the condition of reciprocity. At that time, the law of the Roman Empire was not a foreign oriented law. Following the disintegration of the Roman Empire, several separate areas and countries were formed at a later stage, and with it the idea of the sovereignty of the state was formulating. Therefore, the application of a foreign law and the recognition of a foreign judgment could be considered as a matter of comity, in which the state makes such a claim only if it returns to its favourable position. This principle gives rise to reciprocity and gives grounds for reciprocity as a prerequisite for recognition and enforcement of foreign decisions.[12]

3 Formal and material reciprocity

In his monography *Zimmermann* divides the reciprocity into formal *(i.e.* absolute*)* and material *(i.e.* relative*)* issues. Formal reciprocity means that foreigners are treated in the same way as nationals. It is the assimilation of foreigners, who could be given a different legal status than they would have in their home countries. The requirement is that nationals and foreigners are treated the same way, while making no distinction between them.[13] The formal reciprocity is regulated in Art. 26 (3) of the Act No. 91/2012 Coll., on Private International Law (Czech Republic) ("Czech PILA"). In case of formal reciprocity, a Czech citizen may not have the same specific right in a foreign state as the citizen of that foreign state might have in the Czech Republic. It is sufficient if the foreign state treats the Czech citizen in the same way as his own national. The principle of reciprocity is not infringed if a Czech citizen cannot enjoy a specific right in a foreign state, since that foreign state does not even confer such right on its own citizens. The Ministry of Foreign

12 Lenhoff, A. Reciprocity and the Law of Foreign Judgments: A Historical – Critical Analysis [online]. *Louisiana Law Review*. 1956, Vol. 16, No. 3, pp. 465–483 [cit. 17. 10. 2019]. https://digitalcommons.law.lsu.edu/lalrev/vol16/iss3/2

13 Zimmermann, M. *Mezinárodní právo soukromé*. Brno: Právník, 1933, pp. 29–34; Pauknerová, M., Rozehnalová, N., Zavadilová, M. et al. *Zákon o mezinárodním právu soukromém. Komentář*. Praha: Wolters Kluwer, 2013, p. 97.

Affairs of the Czech Republic may decide that this provision shall not apply unless formal reciprocity is guaranteed in relation to a foreign state. On the other hand, in the context of the material reciprocity, the judicial authority of the Czech Republic itself becomes aware of the lack of reciprocity and shall not grant a specific right. It is the judicial authority itself that decides on the absence of material reciprocity. In the case of formal reciprocity, it is the Ministry's free discretion whether or not the formal reciprocity is given.[14] Within the European countries where legal systems are similar, there are no difficulties in applying formal reciprocity. However, the formal reciprocity takes on a different extent when two completely different legal orders are affected. Whereas the material reciprocity means that foreigners are granted the same rights as nationals of a state abroad, regardless of whether equality between foreigners and nationals will be violated. The proof that reciprocity actually exists cannot be a mere fact, but must be proved.[15]

In international procedural law, reciprocity is conceived as a condition for certain acts of the Czech authorities in relation to foreign countries and involves availability of the same or similar actions by the foreign authorities towards the Czech entities. The concept of material reciprocity is the subject matter when the fulfilment of reciprocity is assessed by an authority in the conduct of a particular act, in which it determines whether or not the reciprocity is fulfilled. Thus, the principle of reciprocity is clearly expressed in terms of procedural matters. Not only in the context of the recognition and enforcement of foreign judgments, but also in the area of legal aid, as well as in the context of the exemption from court fees, the recognition of foreign judgments in insolvency proceedings and the recognition of foreign arbitral awards.[16]

In the case of procedural law, reciprocity can be divided into material and formally guaranteed material reciprocity. The latter applies where a measure is carried out by a foreign authority and there is also an act in the form

14 Kučera, Z., Pauknerová, M., Růžička, K. et. al. *Mezinárodní právo soukromé*. Plzeň-Brno: Aleš Čeněk-Doplněk, pp. 223–224.

15 Ibid.

16 See Art. 10, 15, 103, 111, 120 Czech PILA.

of an international convention. It is sufficient for it to be material that the act is carried out by a foreign authority and there is no need for such an act.[17]

4 Material reciprocity as a precondition for recognition of a foreign judgment

One of the conditions for recognition and enforcement of foreign decisions is the requirement of reciprocity. In the past, the crucial question was whether material or formal reciprocity was involved. The view on this institute has evolved over the years. Shall we mention following: publication from the year 1967 from Štajgr and *Steiner* states that this is a formal reciprocity.[18] They consider that material reciprocity means that in a state in which a decision is issued, identical or at least similar conditions must be laid down for recognition and enforcement of a judgment in the law of the state of recognition and vice versa. This may be demonstrated on an example where, in the case of material reciprocity, it will not be possible to recognise such decisions of the states requiring the issuing of exequatur in the form of a full review of the decision, or where the conditions laid down in those decisions are more strict than those laid down in the legislation of the member state of recognition. In the case of formal reciprocity both authors mention that it is sufficient for the foreign state to declare the foreign judgment to be recognisable and enforceable subject to reciprocity, while there is no need to further examine the specific conditions and its content. Their conclusions are also supported by the previous 1950 legislation. The rules of the recognition and enforcement of foreign decisions were previously contained in Art. 638 (e) and Art. 644 of Code of Civil Procedure, which concerned material reciprocity, where it was a requirement for the reciprocity to be ensured by international treaties or government decrees.[19] When comparing the two sets of rules, the authors infer that, because of the complex nature of the legislation with regard to previous experiences and the need

17 Rozehnalová, N., Drličková, K., Kyselovská, T., Valdhans, J. *Úvod do mezinárodního práva soukromého*. Praha: Wolters Kluwer, 2017, pp. 58–59.

18 Steiner, V., Štajgr, F. *Československé mezinárodní civilní právo procesní*. Praha: Československá akademie věd, 1967, pp. 222–224.

19 Act No. 142/1950 Coll., Proceedings in Civil Legal Matters (Czech Republic) ("Code of Civil Procedure").

to facilitate relations between states in the context of the recognition and enforcement of a foreign decision, in these specific terms (regarding the legislation to the Act No. 97/1963 Coll., on Private International and Procedural Law (Czech Republic) ("Former Czech PILA")) it is formal reciprocity. In addition, the explanatory memorandum to Former Czech PILA, in its list of material reciprocity, does not contain provisions relating to the recognition and enforcement of foreign judgments.[20]

Eller as well addresses the issue raised in the context of determining the nature of reciprocity for the recognition and enforcement of foreign decisions. He states that the Law on Private International Law and the Rules of Procedure from the year 1963 state nothing on this issue thus allowing room for dual interpretation. He also summarises the findings of *Štajger* and *Steiner,* and is in favour of the fact that this is formal reciprocity.[21] On the other hand, *Kučera* considers this to be material reciprocity.[22] In the commentary to the 1963 Law he states that the bestowal of the same status to foreign nationals is not subject to any condition. If a foreign state does not treat Czechoslovak citizens in the same way as their own citizens although nationals of that State have the same status as Czechoslovak citizens, there would be no reciprocity between the procedures of these two states. In the case of formal reciprocity, there is no need for the Czechoslovak citizen to use a specific law of the citizen of that foreign state in Czechoslovakia. It is sufficient that the foreign state treats the foreign citizen in the same way as its own citizen which logically implies that a foreign state cannot grant rights to foreign nationals that are not conferred on its own citizens. This is the essence of the formal reciprocity on which it is based. In the case of material reciprocity, the provision of a right or authority to a foreign national is connected to the fact that his state provides the same right or entitlement to its own nationals.[23] He also states that, in the event of recognition and enforcement of a foreign decision, there is material reciprocity. It is necessary

20 Explanatory Memorandum to the Act No. 97/1963 Coll., on Private International and Procedural Law ("Former Czech PILA").

21 Eller, O. *Mezinárodní občanské právo procesní.* Brno: Univerzita J. E. Purkyně v Brně, 1987, pp. 34–36.

22 Kučera, Z. *Mezinárodní právo soukromé.* Praha: Panorama, 1980, p. 343.

23 Kučera, Z., Tichý, L. *Zákon o mezinárodním právu soukromém a procesním. Komentář.* Praha: Panorama, 1989, pp. 187–188, 278.

for the authorities of a foreign state to recognise and, where appropriate, execute judgments delivered by Czechoslovak courts in the matters of the same kind, without the need for reciprocity to be guaranteed by an international agreement. It is sufficient if the factuality is present.[24] *Tichý* also takes the view, in his monography, that this is a material reciprocity.[25]

4.1 Exceptions to reciprocity and the effect of EU law

If the foreign judgment is not directed against a national of the Czech Republic or Czech legal person, reciprocity is not required. *Kučera* takes the view that the requirement of reciprocity in all cases could have an adverse effect on, at that time – Czechoslovak creditors. This is based on the example of a Czechoslovak foreign trade company in a foreign state reaching a decision which condemns a defendant who is a national of that foreign state to monetary performance. After the decision has been taken, it is established that the defendant has assets in Czechoslovakia. The creditor will therefore bring an application for enforcement of the judgment at the discretion of the Czechoslovak court. If we were to insist on a condition of reciprocity which does not exist in this particular case, the Czechoslovak subject would be forced to conduct costly and lengthy procedures for the enforcement of decisions in a foreign state.[26] Similarly, no reciprocity is required in the matters of status.[27] The same applies to the unified area of recognition.

Within the framework of European Union ("EU") legislation, it is no longer possible to act on the basis of reciprocity. Reciprocity is based on the principle of *mutual trust,* on which the EU rules are built.[28] The rules in current legislation differ from the European and international rules in the reciprocity requirement. International agreements are concluded in order to make the recognition and enforcement of the other state mandatory

24 Kučera, Z., Tichý, L. *Zákon o mezinárodním právu soukromém a procesním. Komentář.* Praha: Panorama, 1989, p. 312.

25 Tichý, L. *Základy uznání cizích soudních rozhodnutí v českém a evropském právu.* Praha: Univerzita Karlova, 1995, pp. 82–84.

26 Kučera, Z., Tichý, L. *Zákon o mezinárodním právu soukromém a procesním. Komentář.* Praha: Panorama, 1989, p. 312.

27 Tichý, L. *Základy uznání cizích soudních rozhodnutí v českém a evropském právu.* Praha: Univerzita Karlova, 1995, pp. 82–84.

28 Pauknerová, M., Rozehnalová, N., Zavadilová, M. et al. *Zákon o mezinárodním právu soukromém. Komentář.* Praha: Wolters Kluwer, 2013, pp. 100–101.

for a Contracting state, regardless of whether or not the other state carries out a decision of the state of recognition in similar cases. This is also the case for the EU. As a general rule, international law does not require the member states to recognise and enforce foreign judgments they do so in accordance with courtesy. It is logical, then, to make sure that their courtesy will be conditional (logically, on the assumption that it is not contractually guaranteed), that the same courtesy is provided by the other state.[29]

The recognition and enforcement of judgments handed down by the courts of the member states must be distinguished from the situation of the recognition and enforcement of decisions of a non-Contracting state where there is a condition of reciprocity. The effect of membership within the EU and the European law has the consequence of another regime of reciprocity in the recognition and enforcement of foreign judgments. The conditions for recognition and enforcement of a member state's decision are much more liberal than is the case under the national regime, in particular the reciprocity envisaged by an international treaty itself or a membership of an international organisation, for example in the EU. *Pauknerová* provides a comparison of the conditions for recognition and enforcement in the European legislation – the Brussels I bis Regulation and the conditions resulting from national legislation such as the Czech Act (§ 15 Czech PILA). National rules are more stringent and express the requirement of reciprocity.[30] The recognition and enforcement of a foreign state judicial decision should be made subject to such conditions to enable the possibility of such a member state of recognition to refuse to recognise such a decision, for example for lack of conformity with public policy. She also states that there are different considerations on how the conditions for recognition and enforcement within the EU should be. Generally a refusal of recognition on grounds of conflict with public policy is seen with displeasure and which may be removed in the future. The EU rules on recognition and enforcement are limited to a European area of recognition and enforcement only applied to the recognition and enforcement of the member states. It will then be for each

29 Vaške, V. *Uznání a výkon cizích rozhodnutí v České republice.* Praha: C. H. Beck, 2007, p. 418.
30 Pauknerová, M. *Evropské mezinárodní právo soukromé.* Praha: C. H. Beck, 2013, p. 84.

state to decide what national legislation to adopt and which it will then apply to relations with third countries.[31]

4.2 Establishing reciprocity

Where material reciprocity applies, it is necessary for the examining court to assess the law of the foreign state concerned or its established practice. In order to establish reciprocity, three groups of surveys can be distinguished, namely:

a) The first group are the general statements made by the Ministry of Justice. The statements by the Ministry of Justice on reciprocity are based on prior negotiations between the concerned ministries of the Czech Republic and the competent authorities of a foreign state. However these are not international treaties by its nature.

b) The second group are cases where the court asks the Ministry of Justice to comment on the issue of reciprocity in a particular case. In such cases, the Ministry assesses whether there is an international agreement and whether there is reciprocity present. There is also an analysis of EU and/or national law, where appropriate. Account shall also be taken of the established practice of the state concerned. After the analyses have been carried out, the Ministry shall provide the court with a statement. The Ministry may also address the question to the state concerned.

c) The third group includes *the ad hoc* reciprocity cases by the court. The court may, without referring the matter to the Ministry on a case by case basis, examine the reciprocity itself. A distinction can be drawn here with regard to the court's procedure for the determination of reciprocity and foreign law. In the event of a court identifying the content of a foreign right, it shall proceed *to* an *ex officio* procedure and take all necessary steps to establish its content. If the court does not find the content of foreign law, it can apply to the Ministry of Justice for cooperation. When establishing reciprocity, the court is not bound by any procedure and thus may or may not request communication from the Ministry.

31 Ibid., p. 85.

4.2.1 Statement by the Ministry on reciprocity

Some countries require declarations of reciprocity from their ministries. This was also the case in the Czech legislation. The reciprocal declarations were binding in the past and thus the courts had to treat the reciprocity as guaranteed in the past, even if they were aware that the foreign courts did not recognise the Czech decision. The declaration of reciprocity is a public declaration signed by the Minister. This is not an email from the Ministry of Justice staff sent in a specific case at the court's request. This would constitute proof of reciprocity in cases where it had to be established in the absence of a declaration. The current legislation leaves these declarations binding and the court will take them into account as any other evidence. Most expert members share the view that statements can continue to maintain their legal force and binding force. The wording of the new provision respects the independence of judicial decisions.[32] *Fišerová* states in the commentaries that the declaration by the Ministry of Justice on reciprocity can still maintain a greater degree of legal force.[33] The Ministry of Justice website provides an overview of the statements on reciprocity issued by the Ministry of Justice in agreement with the Ministry of Foreign Affairs.[34] It is the facilitation of the situation and the practice of issuing such declarations.

4.2.2 Temporal aspects of reciprocity

It is true that, in the absence of reciprocity of a legal or contractual nature, it can be ensured in practice. The practice of recognition is the result of permanent case law and it can be inferred from the practice of the authorities of the state. The timing of reciprocity is also relevant. This means a determination of reciprocity in time. For example, reciprocity does not have to be granted at the time of the decision but will be guaranteed at the time

32 Explanatory Memorandum to the Act No. 91/2012 Coll., on Private International Law (Czech Republic).

33 Bříza, P., Břicháček, T., Fišerová, Z. et al. *Zákon o mezinárodním právu soukromém. Komentář.* Praha: C. H. Beck, 2014, pp. 94–95. There is an opinion that appears in the literature that the Declaration of the Ministry of Justice on reciprocity is binding. See Rozehnalová, N., Drličková, K., Kyselovská, T., Valdhans, J. *Úvod do mezinárodního práva soukromého.* Praha: Wolters Kluwer, 2017, pp. 58–59.

34 Ministry of Justice. Declaration of the Ministry of Justice on reciprocity in civil matters [online]. *Justice.cz* [cit. 20. 1. 2020]. https://www.justice.cz/web/msp/prohlaseni-o-vzajemnosti-v-obcanskych-vecech

when recognition of this Decision is applied. There are many solutions in different legal systems. Some countries prefer the moment at which the proposal for recognition is made. If the legislation itself is based on the rule of law, such a solution should not give rise to any complications. *Tichý* states that it would be most correct to rely on the point at which the decision was in force, since, from that point in time, the decision is eligible for recognition.[35]

The Supreme Court has ruled on this issue in the past. In particular they dealt with the temporal aspect of the Declaration of the Ministry of Justice on reciprocity. In the present case, it is claimed that the declaration from the date of its publication could not apply to all (in this case, German) decisions, irrespective of when they were issued. It was stated that, in the statements, Art. II was worded in such a way that, if there was a presumption that the Czech courts had 'henceforth' recognised and enforced the decisions of the German courts, it could be concluded that the condition of reciprocity was satisfied only in respect of judgments issued after the date of the declaration. It was stated that the word 'henceforth' used in the declaration must be regarded as referring to a procedure followed by the courts after the date of publication and does not mean that reciprocity should be guaranteed for those decisions that are published after that date. The Declaration of the Ministry of Justice is of a declaratory nature, which merely declares an already existing relationship between two states. The Supreme Court states that the term 'henceforth' used in all statements only means guidance for the courts determining enforcement proceedings in the future from the point of reference to the state in which the statutory conditions for recognition and enforcement are fulfilled. The statement cannot be such as to confer rights, but certifies the already existing reality, namely guaranteeing reciprocity on the part of a foreign state.[36]

4.2.3 Specificities of the determination of reciprocity

Reciprocity is established by benchmarking foreign recognition and foreign practices. *Tichý* states that there are opinions in which the condition

35 Tichý, L. *Základy uznání cizích soudních rozhodnutí v českém a evropském právu.* Praha: Univerzita Karlova, 1995, pp. 88–90.

36 Resolution of the Supreme Court of Czech Republic of 9 December 2006, Case No. 20 Cdo 1688/2006.

of reciprocity is fulfilled in cases where the procedural position of a domestic creditor in a foreign state is not less favourable than that of a creditor from a foreign state in the territory of the country. However, he does not agree with that view, as that conclusion would be aimed at exceeding the scope of the recognition right of the two states and would encroach on the whole area of the procedural law of those states. The only decisive thing is the legislation of recognition and its practical application. Since there are differences in the conditions of reciprocity in the different legislations, it is not too acceptable to require a certain degree of conformity of the mutual recognition assumptions. This is because it could easily arise due to a lack of entitlement to the exclusion of a presumption of recognition. However, it is necessary to consider a comprehensive assessment of foreign law. A foreign state must, in principle, have equivalent conditions for recognition and enforcement of a decision of the same kind.[37]

The presumption of reciprocity may be established by law or by virtue of existing practice of recognition among states. The presumption of reciprocity must be verifiable and reviewable. Security is not and cannot be 100 %, the practice and law can change over time. The Court seeks reciprocity *ex officio* in the case of mutual recognition of the principle of reciprocity between two specific states. Where reciprocity is guaranteed by means of an agreement between member states, reciprocity exists and there is no need to examine it. Guaranteeing reciprocity can also be established by law. If there is a statutory provision, there is no longer any need for proof of the practice of recognition in so far as the foreign rules allow for the operation of a domestic decision, while there is no fear of non-compliance.

In the context of the issue addressed, the Supreme Court of the Czech Republic has issued a resolution concerning the composition of the security for the costs of the proceedings. In that decision, it dealt with the question of whether the court was required to ascertain, in order to establish reciprocity, the content of the law of the country against which reciprocity was examined (examined in relation to the Commonwealth of Dominica). This issue has not yet been addressed by the court. The Supreme Court

37 Tichý, L. *Základy uznání cizích soudních rozhodnutí v českém a evropském právu.* Praha: Univerzita Karlova, 1995, pp. 85–87.

of the Czech Republic stated [translation by the author]: "*If an institution applies a rule of law whose use is dependent on reciprocity, it does not apply for foreign law as a result of that rule and does not place itself in the position of a foreign authority, but merely raises the question whether there are sufficient guarantees that the foreign authorities have acted in a certain manner. The conclusions regarding reciprocity made are more or less likely (since the domestic authority, in respect of the sovereignty of other states, cannot conclude that the foreign authority has necessarily acted [would be required to act] in accordance with the opinion of the national authority). The latter does not mean, however, that the Court could, with regard to reciprocity, be able to make findings on a hypothetical basis, based on assumptions. In particular, it is essential for such decisions to be made with regard to the content of foreign laws, maintained practice and, where appropriate, a communication from the Ministry of Justice, and it is not possible, a priori, to order the courts which are to assess the facts to be more relevant. At the same time, it cannot be concluded that, when establishing reciprocity, courts would necessarily have to determine the content of foreign laws, since the content of foreign law is, for the purpose of assessing reciprocity, only one of the legally relevant facts. It should be added that, since courts, when determining reciprocity, take into account the content of foreign laws without applying foreign law (they do not apply), the application of Article 23 (5) z. m. p. s.* [translation by the author: Article 23 para. 5 Czech PILA] *cannot be applied in the absence of foreign law to the application of Article. It is fully acceptable (even in this respect) to conclude that if the court is not aware of any previous practice on the part of the authorities of the foreign state, the communication from the Ministry of Justice does not provide evidence of existing reciprocity, and the content of foreign law has not been detected, no reciprocity has been established.*" [38]

The refusal to recognise a foreign judgment shall be refused if there is no reciprocity on the part of the state where the foreign judgment was issued. For the recognition and enforcement of a decision material reciprocity is required, that is to say, that the state of origin has in fact recognised and enforced the Czech decision in cases of the same kind. Whether a foreign state actually carries out a similar Czech decision is a matter of inquiry. In order to establish reciprocity, the court must carry out an *ex officio* measure of inquiry. The court shall assess the evidence in the light of its own considerations.

38 Resolution of the Supreme Court of Czech Republic of 5 April 2017, Case No. 30 Cdo 4883/2016.

In order to establish reciprocity, the actual practice of the state of origin is therefore decisive. Its legislation is only a kind of guidance on the reality of its practice. For example, if the regime of a foreign state does not generally recognise a foreign judgment, such a practice seems to be the practice of the courts. However, if the courts are in a position to recognise the Czech decision in spite of its legislation, reciprocity is guaranteed. At the same time, the foreign judgment cannot be examined on the merits.

An example. In this case, we can cite an example of a decision issued prior to the Czech Republic's accession to the EU. This is a decision which is today difficult to connect with the reality:

The decision, which has commented on the issue of reciprocity, describes the case of the enforcement of the Austrian decision in the Czech Republic.[39] *There is no reciprocity convention between Austria and the Czech Republic and therefore the court is bound to deal individually with the question of enforceability in the light of the condition of reciprocity. In this case, the Court has requested, through the Ministry of Justice of the Czech Republic, the opinion of the Federal Ministry of Justice of Austria on reciprocity. According to the Austrian Enforcement Order for the execution of foreign decisions, it is presumed that reciprocity is guaranteed by the State treaties or by the provisions. As no bilateral or multilateral treaty on the recognition and enforcement of judgments in civil and commercial matters is concluded between Austria and the Czech Republic, it would prevent the Austrian courts from exercising a Czech decision. It can be concluded from this that Austria makes the enforceability of the Czech Republic's decision conditional on the conclusion of a bilateral or multilateral agreement. The Austrian provision does not accept a procedure such as that of the Czech Republic, where the courts are willing, on a case-by-case basis, to assess enforceability in the light of the circumstances of the case and to enforce the Austrian decision on the territory of the Czech Republic. On the basis of the fact that it follows from the observations of Austria that the courts do not have as a matter of principle any decisions of the Czech courts, there is no possibility, under Czech law, of exercising Austrian decisions. In the light of the Austrian opinion, their decisions are not enforceable in the Czech Republic.*[40]

---

39 Resolution of the Regional Court of Brno of 25 July 1996, Case No. 20 C 28/96. In: Supreme Court of Czech Republic. *The Supreme Court Yearbook: Supreme Court.* Praha: Supreme Court of Czech Republic, 1997, pp. 144–147.

40 Vaške, V. *Přehled judikatury ve věcech civilního řízení s mezinárodním prvkem.* Praha: ASPI, a. s., 2006, pp. 75–76.

An example. *Another decision addressing the issue of reciprocity prior to the accession of the Czech Republic to the European Union is the Supreme Court which dismissed the appeal on the enforcement of the ruling of the Polish court. In the question under consideration, the Court noted the existence of an international treaty between Poland and the Czech Republic on legal aid and the regulation of legal relationships in cases of occasional, family and criminal matters. In so far as the present case concerned commercial matters, it was not possible to apply that contract to the present case. Whereas the Polish courts have failed to recognise the decisions of the Czech courts in commercial matters up to 30.4.2004, that is to say, prior to entering the European Union, such decisions cannot be enforced in the absence of reciprocity.*[41]

5 Development trends of reciprocity in respect of the recognition and enforcement of foreign decisions

The perception of reciprocity may vary from one legal system to another. Reciprocity may be a requirement for recognition and enforcement of foreign judgments. As *Elbalti* indicates, reciprocity may be perceived as a *defence*. He states that, in some jurisdictions, reciprocity has the form of an additional requirement for failure to recognise a foreign judgment.[42] Reciprocity shall be used as means of retaliation against the issuing state in respect of any decision taken by the member state of recognition. The intention is to force changes in regulation by states that have a strict recognition regime. He also states that the development of this concept of reciprocity was twofold. The first one was the abolition of reciprocity. The purpose of the cancellation of reciprocity is justified by the difficulties which may be caused by the reciprocity requirement for recognition of the decision.

41 Resolution of the Supreme Court of Czech Republic of 29 March 2007, Case No. 20 Cdo 3102/2005.

42 *Elbaiti* in his article mentions several states and their legal regulation, where reciprocity is seen as a defence. He divides the states, on the one hand, in those in which reciprocity has been abolished as a requirement for the recognition and enforcement of foreign judgments, such as Poland, Bulgaria, Macedonia, Lithuania, Spain and others. And to those states that still retain the principle of reciprocity. For example, Slovenia, Tunisia, Turkey, Czech Republic, Romania and Panama. See Elbalti, B. Reciprocity and the Recognition and Enforcement of Foreign Judgments: a Lot of Bark but Not Much Bite [online]. *Journal of Private International Law*. 2017, Vol. 13, No. 1, pp. 187–189 [cit. 15. 6. 2019]. https://www.tandfonline.com/doi/full/10.1080/17441048.2017.1304546

Another purpose is to modernise the overall system of recognition and, at the same time, to strengthen the free movement of decisions. A second trend was the relaxation of the strictness of the application of reciprocity. At the same time, there have been developments at both legislative and judicial level.[43] The reason for maintaining reciprocity varies from one piece of legislation to another. *Elbalti* states that, for example, in Tunisia, the reciprocity requirement has been maintained, as it fulfils the function of the security valve*, allowing the state* to make positive use of foreign decisions while taking into account the sovereignty of the state. In States where reciprocity is still in place, its application is either limited or subject to certain exceptions. For example, in the Czech legislation, reciprocity is only required for the recognition of judgments given against persons who are nationals of the state of recognition.[44]

On the other hand, reciprocity may constitute the legal basis for the recognition and enforcement of foreign judgments. In legal systems where reciprocity is the basis for recognition and enforcement is considered to be a value for recognition, which is a prerequisite for enforcement. The legal orders which require such a type of reciprocity generally also require that reciprocity be formally established between the state and the state of recognition. The existence of formal reciprocity is actually the only possible way of obtaining effects in the State of recognition.[45] In some jurisdictions, formal reciprocity is still in place but is mitigated.[46] In his report, *Elbalti* sets out two situations where reciprocity is an effective means of refusing recognition. The first example shows the recognition of a foreign decision in China. The Chinese Law recognises foreign decisions only on the basis of an international agreement or on the basis of reciprocity. The problem is that judicial practice is such that in the absence of an international agreement the Chinese courts normally refuse recognition of foreign judgments

43 Ibid., pp. 186–187.

44 Art. 15 para. 1 letter f) Czech PILA.

45 Elbalti, B. Reciprocity and the Recognition and Enforcement of Foreign Judgments: a Lot of Bark but Not Much Bite [online]. *Journal of Private International Law.* 2017, Vol. 13, No. 1, pp. 196–197 [cit. 15. 6. 2019]. https://www.tandfonline.com/doi/full/10.1080/17441048.2017.1304546

46 For example, the Netherlands, Sweden, Finland, Denmark and Austria. See Ibid., pp. 196–197.

due to the absence of reciprocity. Even though, for example, the Chinese decision has already been recognised abroad.[47] He cites the example of the refusal by the Chinese courts to recognise the Japanese decisions after the Chinese courts had ruled that there is no reciprocity between countries.[48] The second situation is when a foreign judgment is not recognised due to lack of reciprocity in the state of issue of the decision. He cites the example of the Japanese court, which refused to recognise the Belgian decision on the basis that the Belgian courts were implementing the substance of the case before the Court. Another example is the refusal by the German courts to recognise Liechtenstein's decision since, under Liechtenstein law, foreign judgments can only be recognised on the basis of a contractual obligation (i.e. on the basis of an international agreement).[49] Reciprocity is a relevant presumption for the recognition and enforcement of foreign judgments only in those legal systems where their legislation is too strict. At the same time, it states that the practice is different for those legal orders. He refers, for example, to judicial practice in Russia, Sweden and Norway, where, despite the fact that foreign judgments are recognised only if there is an international treaty, judicial practice is different and there is recognition despite the absence of an international treaty between certain states.

6 Elimination of reciprocity

Already in the past, there has been a claim that casts doubt on the merits of refusing to recognize and enforce foreign decisions for lack of reciprocity. If there is no consensus among the member states on mutual recognition of decisions, individuals cannot legally organise their relations even

47 *Elbaiti* states that a change of the application of reciprocity for possible recognition and enforcement of a foreign decision in China can be seen. See Ibid., pp. 203–205, 218. See also Huang, J. Reciprocal Recognition and Enforcement of Foreign Judgments in China: Promising Developments, Prospective Challenges and Proposed Solutions. *Legal Studies Research Paper No. 19/23* [online]. Published in March 2019 [cit. 20. 1. 2020]. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3359349

48 See Elbalti, B. Reciprocity and the Recognition and Enforcement of Foreign Judgments: a Lot of Bark but Not Much Bite [online]. *Journal of Private International Law*. 2017, Vol. 13, No. 1, pp. 201–204 [cit. 15. 6. 2019]. https://www.tandfonline.com/doi/full/10.1080/17441048.2017.1304546

49 Ibid., p. 206.

if they have reached a court decision, so it can no longer achieve the decision to have legal effects in another.[50]

Tichý states that reciprocity is lacking in its own merits, since it does not share a foreign decision with the content of the foreign judgment. The historical link to public international law and the law on aliens are also unfounded. Likewise, the perception of a waiver as a result of recognition is a false and incorrect conclusion. In the development of the Institute of reciprocity, more friendly and favourable conditions for recognition need to be offered. He also considers that mechanisms in the form of public policy or lack of jurisdiction are fully sufficient to enable a possible refusal of recognition of a judgment. Thus, even a lack of reciprocity can cause harm to private individuals who cannot in any way guarantee reciprocity.[51] Finally, he adds that it is perfectly justifiable for the condition of reciprocity to be removed.[52]

Lenhoff claims that the reciprocal treatment of the treatment of foreign decisions is based on significant irregularities. He also refers to a large fallacy, which is based on the idea that the interests of the foreign national are compared by a policy which is contrary to such enforcement only because it is a foreign national. He also argues that the insistence of reciprocity serves to mislead the forum state to pay its attention away from the actual question, whether the decision indicates that the foreign national has been the victim of injustice. The courts in the recognition of foreign judgments always have to examine the question of whether the way in which a decision was issued was in accordance with the procedural fair play. The strong state guarantees thus prevent the foreign judgment from producing its effects in that state. It is questionable whether reciprocity can provide a guarantee. He states that there are states whose administration of justice could not be regarded as a model of perfection. However, by fulfilling the reciprocity requirement, they can ensure preferred status in a country with a high degree of judicial

50 Rozehnalová, N., Týč, V. et al. *Vybrané problémy mezinárodního práva soukromého v justiční praxi*. Brno: Masarykova univerzita, 1998, p. 113.

51 Tichý, L. *Základy uznání cizích soudních rozhodnutí v českém a evropském právu*. Praha: Univerzita Karlova, 1995, pp. 90–91.

52 Ibid. See also Elbalti, B. Reciprocity and the Recognition and Enforcement of Foreign Judgments: a Lot of Bark but Not Much Bite [online]. *Journal of Private International Law*. 2017, Vol. 13, No. 1, pp. 184–218 [cit. 15. 6. 2019]. https://www.tandfonline.com/doi/full/10.1080/17441048.2017.1304546

administration. The requirement of reciprocity is arbitrary in legal logic and undesirable in terms of legal policy.[53]

The requirement of reciprocity, which in some legal orders has the effect of making it almost meaningless. I.e. such a condition, which is indicated in the literature, but applied exceptionally in practice. In particular, in order to maintain the rights of the parties, it is reasonable to consider that reciprocity is currently not in recognition and enforcement of foreign decisions. *Elbaiti* takes the view that reciprocity is more likely to exist in many jurisdictions because of psychological need for protection, namely protection of the dignity and honour of the state, the protection of the state's sovereignty and the protection of international equality between states. Also, reciprocity can be considered useful as it enables the recognising state to avoid controversial issues such as the independence and impartiality of the foreign judicial system. Therefore, it is considered more secure to address the issues of recognition and enforcement of foreign decisions with reciprocity. It can also be considered that it has not taken the right time to eliminate reciprocity. Since it is not known that reciprocity in legal orders will be abolished in the future, the courts are bound to interpret it in a liberal manner.[54]

7 Conclusion

The development of the recognition right itself and the importance of international agreements and the impact of European law in the form of issuing legal instruments influenced the conditions for recognition. In so far as it is necessary to guarantee reciprocity. From the Brussels Convention to today's Brussels I bis Regulation, there is no reciprocity requirement among the member states of the EU. The states that operate with reciprocity that is contractually guaranteed are not prone to any complications, but the states that operate with factual reciprocity are often in difficulty

53 Lenhoff, A. Reciprocity and the Law of Foreign Judgments: A Historical – Critical Analysis [online]. *Louisiana Law Review*. 1956, Vol. 16, No. 3, pp. 465–483 [cit. 17. 10. 2019]. https://digitalcommons.law.lsu.edu/lalrev/vol16/iss3/2

54 Elbalti, B. Reciprocity and the Recognition and Enforcement of Foreign Judgments: a Lot of Bark but Not Much Bite [online]. *Journal of Private International Law.* 2017, Vol. 13, No. 1, pp. 214–217 [cit. 15. 6. 2019]. https://www.tandfonline.com/doi/full/10.1080/17441048.2017.1304546

in identifying it. Only some states have a well organised case law in order to provide clear evidence of its existence.

Lenhoff, in his article, starts with the first question: "*Why is reciprocity?*" From the answer, a clear definition is expected, what is meant by reciprocity. The issue is that reciprocity is seen as a general idea rather than a holistic concept.[55] The perception of the Institute varies from one legal order to another, including its application as part of the recognition and enforcement of judgments. However, it is common ground that, in the spirit of reciprocity, some behaviour of one subject is in relation to the behaviour of the other subject. By virtue of national sovereignty, individual states are not obliged to recognize foreign decisions, they do so for courtesy. The very idea of reciprocity continues to form the basis of international law. Reciprocity is an essential part of recognition. Recognition has a major impact on its development. As it loses the importance of reciprocity, it liberalises the area of recognition.

The aim of the paper is to determine and establish whether the recognition and enforcement instrument is at present a relevant instrument. In conclusion, reciprocity is a means of defending and protecting the sovereignty of the state against the recognition of foreign decisions. It can now be assumed that reciprocity will not be abolished in the foreseeable future, as states feel more secure behind an imaginary reciprocity shield.

Literature

Elbalti, B. Reciprocity and the Recognition and Enforcement of Foreign Judgments: a Lot of Bark but Not Much Bite [online]. *Journal of Private International Law.* 2017, Vol. 13, No. 1, pp. 184–218 [cit. 15. 6. 2019]. https://www.tandfonline.com/doi/full/10.1080/17441048.2017.1304546. https://doi.org/10.1080/17441048.2017.1304546

Bříza, P., Břicháček, T., Fišerová, Z. et al. *Zákon o mezinárodním právu soukromém. Komentář.* Praha: C. H. Beck, 2014, 768 p.

Eller, O. *Mezinárodní občanské právo procesní.* Brno: Univerzita J. E. Purkyně v Brně, 1987, 93 p.

55 Lenhoff, A. Reciprocity and the Law of Foreign Judgments: A Historical – Critical Analysis [online]. *Louisiana Law Review.* 1956, Vol. 16, No. 3, pp. 465–483 [cit. 17. 10. 2019]. https://digitalcommons.law.lsu.edu/lalrev/vol16/iss3/2

Huang, J. Reciprocal Recognition and Enforcement of Foreign Judgments in China: Promising Developments, Prospective Challenges and Proposed Solutions. *Legal Studies Research Paper No. 19/23* [online]. Published in March 2019 [cit. 20. 1. 2020]. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3359349

Krčmář, J. *Úvod do mezinárodního práva soukromého. Část I. propedeutická*. Praha: Bursík & Kohout, 1906, 304 p.

Kučera, Z. *Mezinárodní právo soukromé*. Praha: Panorama, 1980, 394 p.

Kučera, Z., Tichý, L. *Zákon o mezinárodním právu soukromém a procesním. Komentář*. Praha: Panorama, 1989, 362 p.

Kučera, Z., Pauknerová, M., Růžička, K. et al. *Mezinárodní právo soukromé*. Plzeň-Brno: Aleš Čeněk-Doplněk, 2015, 432 p.

Lenhoff, A. Reciprocity and the Law of Foreign Judgments: A Historical – Critical Analysis [online]. *Louisiana Law Review*. 1956, Vol. 16, No. 3, pp. 465–483 [cit. 17. 10. 2019]. https://digitalcommons.law.lsu.edu/lalrev/vol16/iss3/2

North, C. Conclusion of the HCCH Judgments Convention: The objectives and architecture of the Judgments Convention, a brief overview of some key provisions, and what's next? [online]. *Conflictoflaws.net*. Published on 2 July 2019, 6 p. [cit. 14. 10. 2019]. http://conflictoflaws.net/2019/conclusion-of-the-hcch-judgments-convention-the-objectives-and-architecture-of-the-judgments-convention-a-brief-overview-of-some-key-provisions-and-whats-next/?print=pdf

Pauknerová, M. *Evropské mezinárodní právo soukromé*. Praha: C. H. Beck, 2013, 304 p.

Pauknerová, M., Rozehnalová, N., Zavadilová, M. et al. *Zákon o mezinárodním právu soukromém. Komentář*. Praha: Wolters Kluwer, 2013, 853 p.

Rozehnalová, N., Týč, V. et al. *Vybrané problémy mezinárodního práva soukromého v justiční praxi*. Brno: Masarykova univerzita, 1998, 197 p.

Rozehnalová, N., Drličková, K., Kyselovská, T., Valdhans, J. *Úvod do mezinárodního práva soukromého*. Praha: Wolters Kluwer, 2017, 303 p.

Steiner, V., Štajgr, F. *Československé mezinárodní civilní právo procesní*. Praha: Československá akademie věd, 1967, 385 p.

Supreme Court of Czech Republic. *The Supreme Court Yearbook: Supreme Court.* Praha: Supreme Court of Czech Republic, 1997, pp. 144–147.

Tichý, L. *Základy uznání cizích soudních rozhodnutí v českém a evropském právu.* Praha: Univerzita Karlova, 1995, 129 p.

Vaške, V. *Přehled judikatury ve věcech civilního řízení s mezinárodním prvkem.* Praha: ASPI, a. s., 2006, 127 p.

Vaške, V. *Uznání a výkon cizích rozhodnutí v České republice.* Praha: C. H. Beck, 2007, 477 p.

Zimmermann, M. *Mezinárodní právo soukromé.* Brno: Právník, 1933, 445 p.