

Action for retrial and for nullity

Abstract

This diploma thesis deals with action for retrial and for nullity. The aim is to provide a systematic interpretation about both of these institutes and characterize them in a system of extraordinary remedies. Although both of them are regulated in part four chapter two of the Act No. 99/1963 Coll., Civil Procedure Code, as amended, their respective purposes are completely different. Action for retrial serves for a remedy of factual defects as a final decision could not stand due to a fundamental change of facts whereas action for nullity serves for a remedy of important procedural defects which affected court decision itself or proceeding preceding it. Both institutes can challenge a final decision and break the legal certainty brought by it.

This diploma thesis contains four chapters. The first of them deals with remedial systems and remedies containing a brief characteristic of individual types of remedial systems and remedies.

The second chapter addressing action for retrial and the third chapter dealing with action for nullity represent main parts of the thesis. Division into subchapters is almost identical for both of them and the subchapters cover the following topics: historical development of both institutes, conditions of and grounds for admissibility, authorization of persons entitled to file the actions, material requirements, time limits for their submission, their effects, and proceedings and decision on them including remedies against these rulings.

The final fourth chapter of the thesis offers *de lege ferenda* thoughts about action for retrial and action for nullity and summarizes deficiencies of current legislation. These thoughts are placed in the context of published material proposal of a new legislation related to civil procedure law which is now being prepared. The chapter contains also statistical data showing frequency of use of both institutes.

Key words

extraordinary remedies, action for retrial, action for nullity