

Action for retrial and for nullity

Abstract

This diploma thesis presents two institutes of Czech civil procedural law - an action for retrial and an action for nullity. Both actions are considered extraordinary remedies under Czech law and both can challenge a final court decision. An action for retrial serves to rectify defects in factual findings; an action for nullity serves to rectify procedural defects. Specific court decisions of the district, regional, and high courts are demonstrated in the thesis and prove that despite the scarce employment, the position of the actions within the legal system is justified and deserved. Both actions can further be found, slightly modified, in the upcoming new Civil Procedure Code, which should in the future replace the current Civil Procedure Code. The thesis presents several partial aims and one main aim. The partial aims are to introduce to the reader the actions for retrial and for nullity, to analyse their frequency and the reasons for which the actions were granted, and to make a comparison of Czech and Swedish civil procedural law. Fulfilling the partial aims accomplishes the main goal of the thesis: to provide a critical analysis of the substantive intent of the Civil Procedure Code based on the acquired knowledge.

The diploma thesis is divided into six sections and is further divided into chapters and subchapters. Section one introduces the medial procedure to the reader. This is a theoretical section that divides and characterizes remedial systems and remedies under the Czech law. The second section gives a theoretical interpretation of the actions for retrial; the third section of the action for nullity. Both second and third sections contain their admissibility, the grounds for bringing actions, the circumstances of the actions themselves (including time limits), and, finally, the proceedings and decisions on actions.

The fourth section looks at extraordinary remedies from a different perspective. Extraordinariness is not viewed from a lawyer's perspective, but the rarity of both institutes is examined. The frequency of use of both actions and the success of the parties before the court are analysed based on the data obtained. The reasons for the appellants' success in the actions are also analysed. The fifth section introduces and compares the institutes of Swedish civil procedural law, which are similar to actions for retrial and nullity.

In the final section, the consultation document of the new Civil Procedure Code is presented and critically examined using the acquired knowledge. The partial shortcomings of the planned code are presented together with proposals on how to manage them.

Key words: the consultation document on the new Civil Procedure Code, action for retrial, action for nullity