

Abstrakt a klíčová slova v anglickém jazyce

Title of rigorous thesis: Appellate review in civil procedure

Abstract

The rigorous thesis focuses on the extraordinary remedy of “appellate review” (*in Czech: dovolání*), as stipulated in Act No. 99/1963 Coll., the Code of Civil Procedure, as amended. The remedy is extraordinary in the sense that it allows to contest a final and enforceable court decision. The thesis is divided into seven chapters. The first two chapters focus on the general principles of civil procedure, appellate systems, types of remedies and the history of the concept of appellate review. The second chapter also includes a passage presenting the planned recodification of civil procedure based on the substantive intent of the Civil Procedure Rules drafted in 2017. The third chapter is the core of the thesis and contains, in particular, the conditions for admissibility of appellate review and the requisites of an application for appellate review. The chapter describes who can lodge an application for appellate review, and specifies the place and deadline for filing the application. Two autonomous requisites are essential for an appellate review and the relevant proceedings: (a) definition of the conditions for admissibility of appellate review; and (b) specification of the grounds for appellate review. Appellate review is permissible if there is an interest in harmonising the case law or in resolving a question that has not yet been addressed in the case law; the grounds for appellate review consist in an error of law concerning the assessment of a question of substantive law or a question of procedural law. The thesis describes the manner of defining the conditions for admissibility of appellate review; the applicant must specify the question of substantive law or procedural law (a) which the appellate court assessed in deviation from the established case-law of the appellate review court; or (b) which has not yet been addressed in the case-law of the appellate review court; or (c) which has been resolved in the case law of the appellate review court inconsistently; or (d) which has been resolved by the appellate review court but should be assessed differently. These four preconditions for admissibility of appellate review cannot be invoked cumulatively; accordingly, the appellant must indicate in the application for appellate review which of the above preconditions he applies. The thesis further mentions situations where appellate review is impermissible; indeed, certain court decisions cannot be submitted to the appellate review court for review. It also contains a list of procedural decisions that are reviewable by the appellate review court. Chapter four describes the court procedure after lodging of an application for appellate review and after issuing a decision on the application. A separate chapter deals with the decision-making of the Supreme Court in appellate review

proceedings. Chapter six describes the relation between an application for appellate review and a constitutional complaint, accentuating the difference between the Supreme Court, whose task is to unify the case law, and the Constitutional Court, which is responsible for ensuring respect of constitutionally guaranteed fundamental rights and freedoms. Chapter seven contains a comparative analysis of the Czech and Slovak legislations concerning appellate review.

Keywords: Civil procedure, Remedies, Appellate review