

Complaint against a violation of the law according to § 266 of the Code of Criminal Procedure

Abstract of the thesis in English

The aim of this diploma thesis is to evaluate the role of the complaint against a violation of the law according to § 266 in the system of extraordinary remedies available under the Czech Code of Criminal Procedure. Pursuing this goal, this thesis firstly defines the meaning and purpose of remedies, with special focus on the extraordinary remedies in criminal procedure, and afterwards provides a comparison of the complaint against a violation of the law with the extraordinary appeal, retrial and the supreme prosecutors right under § 174a. Emphasis is put on particular differences in the statutory regulation of these institutes, the groups of errors they are designed to remedy, and on the extent to which they overlap and/or complement the complaint against a violation of the law in practice. Part of the thesis has also been dedicated to the complaint itself, the characteristic of its functions and in short also to the manner of processing the motions for its filing. The thesis also includes an overview of the existence of the complaint in our legal system throughout its history and offers a comparative analysis with two foreign criminal procedure regulations, which are developmentally related to the Czech one in the context of the complaint against a violation of the law. The theoretical section of the paper then presents statistical data on the decisions on complaints issued by the Supreme Court in the year of 2023 (118 decisions in total, of which 108 were decisions on the merits). The data presented provides insight into the portion of the Supreme Court's workload comprised by the complaint, the usual characteristics of the decisions challenged by the complaint, and the kind of errors of decisions mostly remedied by complaint. In conclusion of the thesis, the author, in the context of the presented information, evaluates the extent to which the complaint against a violation of the law is still relevant in the current state of the criminal procedure. She also answers the question of what the consequences of its complete omission from the Code of Criminal Procedure under the current legal framework would be, either by the means of another major amendment or a complete recodification. The thesis also includes a *de lege ferenda* proposal as to how the area of errors rectifiable by the complaint against the violation of the law which still does not completely overlap with the other extraordinary remedies could be incorporated into these other institutions.

Keywords:

complaint against a violation of the law, extraordinary remedies, judicial errors