

Summary:

The topic of this advanced thesis is extraordinary appeal in prosecution and its characteristics as an extraordinary legal remedy not only separately, but also in the context of complaint of illegality, reopening of trial and constitutional complaint.

The introduction of the thesis briefly outlines the history of legal remedies from the Middle Ages to Act No 64/1956 Coll. - Penal Code, which was a direct predecessor of the current penal code from 1961. This chapter on the history is included in the volume in order to make the reader aware of the time required for the development of legal culture to attain review activities by higher level courts on the basis of both regular and extraordinary legal remedies. Extraordinary appeal as an extraordinary legal remedy is subject to the principles of criminal prosecution, not only to general ones going through the entire prosecution process, but also to specific ones, which are typical for legal remedies only; that is why this thesis includes also a chapter on principals of prosecution.

The core chapter of this thesis on extraordinary appeal is structured in subchapters following the sectional structure of the Penal Code and the theoretical explanation of this field includes also an overview of applicable practice by the Supreme Court and the Constitutional Court of the Czech Republic. The decisions by the two courts are often contradictory, this fact being implied by the enactment of extraordinary appeal as compared to that of constitutional complaint. Extraordinary appeal is intended for correction of most severe legal deficiencies of material or process law as opposed to correction of factual deficiencies. Also the extent of the reviewing activities by the Supreme Court is restricted in the sense of scope and grounds indicated in the presented complaint and also by the fact that the appeal court is limited to the factual description identified by the first instance and second instance courts. This is why in some instances extraordinary appeals rejected by the Supreme Court are reviewed on the basis of constitutional complaint by the Constitutional Court and declared null and void with an explanation that the interpretation of the legal regulation for extraordinary appeal by the Supreme Court is too restrictive, which implies an infringement on the constitutional rights of the accused. The thesis strives to point out these discrepancies in court approaches and attempts to find a solution of this contradiction, in particular in the chapter treating the relationship between extraordinary appeal, other extraordinary legal remedies and constitutional complaint.

In Slovak penal legislation, changes were made from Jan 1, 2006 both in material and process criminal law, as a new penal code and new penal proceedings became applicable. Slovak legislation related to extraordinary appeal and its comparison with Czech legislation is treated in chapter six and it can be stated that the result is rather unfavorable for Czech legislation.

The objective of this thesis is to describe comprehensively the legislation of extraordinary appeal not only theoretically, but also with regard to the practice in a law office, as implied by the applicable legislation for the Supreme and Constitutional Courts and in the context of the entire system of extraordinary legal remedies.

Klíčová slova:

dovolání – extraordinary appeal

opravné prostředky – legal remedies

judikatura – practice of the courts