

Summary / Appeal review in civil proceedings

My thesis deals with the current enactment of appeal review in the Czech civil procedure code (hereinafter referred to as „CPC“). The primary aim of my thesis was to inform the potential readers comprehensively about appeal review in civil proceedings.

My effort was also to explain single provisions with references to the chosen judicial decisions given by the Supreme court as the highest judicial body in the Czech Republic. My thesis brings a contemporary sight of legal interpretation given by the Supreme court in order to approximate the legal regulation of appeal review in the most intelligible way.

The thesis is composed of eight chapters, each of them dealing with single provisions of appeal review in CPC. Chapter One is introductory and defines appeal review as an extraordinary legal remedy in civil proceedings. Chapter Two deals with the history of enactment of this legal remedy in the Czech lands. Chapter Three deals with admissibility of appeal review, Chapter Four is focused to the process of lodging an extraordinary appeal and Chapter Five summons the legal requirements and reasons for which an appeal review can be opened. Chapters Six, Seven and Eight deal with the appeal review proceedings itself.

To summarize, it is necessary to point out at the first place, that appeal review in civil proceedings is an extraordinary legal remedy. Being an extraordinary legal remedy means that appeal review (extraordinary appeal) can only be lodged against decisions of court which have legal force. Appeal review is an extraordinary remedial instrument that is exclusively admissible against legitimate decisions of appelation court.

The main purpose of appeal review is to consolidate the decision-making at lower courts. Only the Supreme court has a competence to give judgments on an extraordinary appeal in core of the matter. It is a cassation court and thus is unable to change the contested decision.

There are strict legal conditions that must be fulfilled, so an appeal review is admissible. It is because the fact that deciding of an extraordinary appeal in the core of the matter means a break into a legal validity of a decision. Extraordinary appeal is then, in general, admissible in cases, when the interest in appeal review predominates over stability of legal relations established by the contested decision.

According to CPC, the appellant has to meet the special requirements specified for an appeal review (together with general requirements for all entries). The decision of an

appellate court is then reviewed from the extent and from the reasons that have been defined by the appellant.

To the special requirements, in the first place, belong the exact reasons defined by CPC, which can be solely used to justify appeal review.¹ Appeal review is admissible in cases when proceedings before appellate court suffered with legal defect, which caused wrongful adjudication in core of the matter, or decision lies in wrongful legal assessment facts in issue, or appellate court decision is based on deed identification, which does not have basis in accomplished validation procedure.

The appeal review procedure itself is opened by lodging an extraordinary appeal in the court of first instance. The procedure is crowned by the Supreme court. The Supreme court is a cassation court, thus it does not present any evidence. The exception of this rule is the situation when it is convenient or when it is necessary to prove the reason of extraordinary appeal.

An obligatory legal representation is required for the appellant. Him and other participants of the appeal review procedure are also determined by other rule. This rule prohibits to offer new facts and evidence on the merits. Last but not least, during the appeal review procedure the public hearing is excluded.

I hope the main aim of the thesis has been reached. I also suggest that new legislation should be passed.

¹ The appeal reasons are listed in the provisions of Section 241/2 and 3 CPC.