

Abstract

The subject of my thesis is the Action for a new trial and action for a mistrial. The purpose of this thesis is to characterize these actions from point of view of their exceptionality as the extraordinary remedies, to compare their common and different features and to suggest the possible future legislation.

The thesis is composed of seven chapters. The aim of the first and the second chapter is to briefly characterize the redress procedures, the individual repair systems and the remedies from the general point of view, from which these two actions are patterned.

The following chapter briefly describes the extraordinary remedies from the point of view of their characteristic signs and their representation in the present legislation. I am also mentioning the two important amendments of civil procedure, which are responsible for the creation of the system of remedies as we know it in present form in this chapter.

The fourth chapter is divided into nine subchapters and dealing with the analyses of the action for a new trial. The purpose of each subchapter is not only to commonly characterize the action for a new trial, but also to explain under what circumstances is the action for a new trial allowable, which subjects are justified to sue, which requisites the action for a new trial has to include, and which statutory deadline have to be observed for sue. The most important part of this chapter is the explanation, in which situation is the action for a new trial allowable and for which causes of action is possible to use this action. The last two subchapters document the proceedings about the action for a new trial and also the procedure when a new trial is allowed.

The fifth chapter analyzes the action for a mistrial in detail. This chapter is composed of twelve subchapters. Their purpose is the same as the purpose of the fourth chapter for the action of a new trial. However the enumeration of circumstances, which are describing when the action for a mistrial is allowed to sue and the quantity of causes of action for which is allowed, is much larger than for the action for a new trial.

The purpose of another chapter is to compare both of actions from the point of view of their common and different characters. Both of actions are regulated in the law in the same place and many of provisions of the act are identical for them. However each of the actions has the different purpose. The action for a new trial is used by a court to repair incorrect or incomplete facts and the action for a mistrial is used for reparation of procedural mistakes.

The biggest difference between these two actions has to be seen in the possibilities when the actions are allowed and for which causes of action it can be used.

The last chapter consist of some of my considerations of making law. One of the considerations which I am suggesting is to legitimize a mandatory representation for the action for a mistrial, because it can be difficult for people without legal education to recognize, if the proceeding or court desicion contains the procedural mistakes.

Finally I have to say, that the statutory regulation of the action for a new trial and the action for a mistrial is almost perfect to me. However some improvements can be found. So we will see, how will the legislator deal with the statutory regulation of these two actions in the future.