

Abstract

Remedies in criminal proceedings are designed in particular to remedy and rectify errors and mistakes occurring in the course of the proceeding, and as such serve for the review and rectification of both legal and factual defects. Remedies may be ordinary or extraordinary. Ordinary remedies include appeal, complaint and protest, while extraordinary remedies include extraordinary appeal, complaint for breach of law and renewal of proceeding.

The principal prerequisite for the stability of final and enforceable decisions in criminal proceedings is their unchangeability. It is impossible to rule out a serious error, and such a defect in the final and enforceable decision of a law enforcement or judicial body may occur as a result that insisting on its binding and unchangeable nature would disrupt fair and correct decision-making. The finality and enforceability of a decision ought to be pierced in exceptional cases only, and then only when it is necessary and when the stability of the decision cannot be insisted on.

Extraordinary appeal was introduced into the Czech legal order by the 2001 amendment to the Criminal Code. This extraordinary legal remedy serves to remedy enumerated defects in the most important types of court decisions, or to review life sentences. Extraordinary appeal can only be used to remedy legal defects in final and enforceable court decisions, and it may only concern a court decision on merit, if the court decided in the second instance and the law so permits.

Complaint for breach of law may be filed against a final and enforceable decision of a court and a public prosecutor which breached the law or which was made on the basis of defective process. This extraordinary remedy serves to remedy legal defects and inadequacies in factual findings, where such inadequacies result from a defective legal assessment of an act or from defective process. Only the justice minister is authorized to file a complaint for breach of law.

Renewal of proceeding is an extraordinary remedy that may be used to challenge only certain final and enforceable decisions by virtue of which a criminal prosecution ended. It is used to address inadequacies in factual findings in cases where not all the relevant facts and evidence were known at the time, and only came to light after the original decision entered into force. Assessment is made as to

whether the new evidence and facts previously not known to law enforcement and judicial bodies might substantiate a different decision.