

Remedies in civil procedure under Czech and Slovak legal order - comparative view

Abstract

The aim of the rigorous thesis is to analyze and then compare the individual remedies of the finding procedure as the basic type of civil (judicial) process in the legal regulations of two separate states, the Czech Republic and the Slovak Republic, with particular emphasis on the differences of both orders and their same or similar features stemming from a shared legal, historical, cultural and social past, as well as from mutual inspiration and shared value attitudes.

In the first part, dealing with general theoretical background and concepts, emphasis is placed on describing the civil process in both countries, especially in terms of its division into founding and executing procedures. The stage of the finding procedure is the remedy whereby the appeals court examines the correctness of the contested decision. Finding procedures can be differentiated into dispute and non-dispute proceedings. In regards to the parties involved in civil proceedings, they are the participants in civil law relations or the parties to the proceedings, in particular litigation and court. Apart from them, other persons, such as a prosecutor (public prosecutor), a lawyer, a notary or in the Czech Republic, the Office for Government Representation in Property Affairs, may take part in the proceedings.

The second part of the thesis focuses on the most important issues of individual remedies, namely the conditions of their admissibility, which are admissible subject, the person authorized to submit them, the period for their submission and their requirements, including the argument. In particular, a special remedy in both countries is the appeal to the supreme courts, which in this way can fulfill their role of unifying the interpretation of the law by the lower courts. While in the Czech Republic, only an incorrect legal assessment, ie questions of substantive and procedural law, from which the decision depended, can be objected to, in the Slovak Republic, even confusing law defect or malformation can be applied simultaneously or independently. Indeed, the Czech legislation based on these most serious procedural defects a different extraordinary means, an action for nullity. Lastly, the renewal of the procedure, as a less frequent extraordinary remedy, has essentially the same understanding in both orders, and serves to eliminate the facts of the original proceedings.

Keywords: civil, trial, court, abjuration, appeal