

The Position of Review Appeal in the System of Remedies

Abstract

What is the purpose of the review appeal in civil matters? Should the review appeal be of an ordinary or extraordinary nature? Should the admissibility requirements of the review appeal be determined entirely objectively, or should it depend, at least in part, on the subjective discretion of the appellate court? This is only a part of numerous questions that have accompanied the institute of review appeal for several historical stages and, due to the planned overall recodification of the civil procedure law, these issues remain relevant even today. The author of this work aims to provide an answer to some of these questions based on a critical view of the historical development of the review appeal, current legislation concerning this matter and the review appeal from *de lege ferenda* perspective.

In the first chapter, the author generally discusses remedies in civil proceedings, their nature, effects, and definition of the review appeal. The greatest attention is paid to the purposes of the review appeal, which include finding individual justice and unifying the decision-making practice of the civil courts.

In the second chapter, the author focuses in detail on the historical development of the institute of review appeal. Its important stages of development and milestones include the period of existence of the Austro-Hungarian monarchy, the reception of Austrian legislation into the Czechoslovak legal system, the period between 1948 and 1989 when the review appeal was temporarily set aside, the period after 1991 when the appeal was reintroduced into the Czechoslovak legal system and, last but not least, derogating judgment of the Constitutional Court in the 2012.

The third chapter deals with the applicable and effective legal regulation of the review appeal. In addition to the purpose and nature of the review appeal, the admissibility requirements and grounds of the review appeal, this chapter also discusses other aspects of the review appeal, such as the obligation of legal representation, the content of appeal, the role of the court of the first instance, and others.

The fourth chapter provides a cursory comparative overview of historically and geographically related foreign legal systems and the remedies resembling the institute of the review appeal.

In the fifth chapter, the author generally summarizes the conclusions regarding the appropriate form of the review appeal regulation from de lege ferenda perspective and subsequently uses these conclusions to critically analyse “The Consultation Document of the Civil Procedure Code” of 2017, which largely intervenes in the review appeal regulation. Finally, in the fifth chapter, the author's own proposal concerning the legal regulation of review appeals from de lege ferenda perspective is made.

Keywords:

civil proceedings, remedies, review appeal, nature of the review appeal, admissibility of the review appeal, grounds for the review appeal