

ABSTRACT

The thesis aims to describe the new regulation of the application for appeal review introduced by means of an amendment to the Civil Procedure Code made by the act No. 404/2012 Sb. and to assess its compliance with the Constitution. During the preparation of this amendment a part of the Civil Procedure Code (specifically sec. 237 (1) c)) governing the admissibility of the discretionary application for appeal review was cancelled due to being in conflict with the Constitution by means of the decision of the Constitutional Court of 21 February 2012, file No. Pl. ÚS 29/11. For that purpose, at first, the thesis deals with the application for appeal review itself and certain aspects of it, especially the role it has in the Czech legal system. Based on this general part a special part is built dealing with the admissibility of the application for appeal review. Firstly, the admissibility under the old legislation is described, after that the conclusions of the Constitutional Court are critically examined and, finally, the new legislation is described and confronted with the findings of the Constitutional Court.

The Constitutional Court criticized the old legislation for not being sufficiently predictable. It concluded that in order for the new legislation to comply with the Constitution the potential applicant would have to be able to determine whether his application for appeal review will be admissible or not before filing it. That means that the admissibility of the application for appeal review cannot depend on the Supreme Court's assessment as it did under the old legislation but to depend on objective conditions. Hence, the question was, whether the new legislation meets this criterion. I believe it does not. Under the sec 237 of the new Civil Procedure Code the application for appeal review is, among others, admissible if „*the contested decision depends on resolving questions of substantive or procedural law*“ and „*the Supreme Court should decide on the question in another way*“. In this case the admissibility of the application for appeal review depends on the assessment by the Supreme Court.

Even though I have concluded that the new legislation does not comply with the demands made by the Constitutional Court through its decision file No. Pl. ÚS 29/11 I believe that the new legislation does comply with the Constitution. Certain unpredictability is balanced by the Supreme Court being able to create its own legal opinion and to correct it if necessary.