

Summary

The manner of formulating appeal pleas, i.e., claims of failures committed by the court of first instance in the judgment under appeal, is one of the most important issues related to appeal proceedings in criminal trial.

The role of appeal pleas has increased even more as a result of the amendment made by the Act of 11 March 2016, which changed the content of Civil Procedure Code Art. 433 §1. After the amendment, the appeal pleas have acquired the status of a factor determining the limits of appeal review, regardless of whether these pleas are formulated by a professional or unprofessional person. The provisions of the Code of Criminal Procedure do not give clear guidance on how appeal pleas should be formulated. This issue has also not been adequately clarified in the case-law and in legal literature. The objective of the doctoral dissertation was to develop methods for the correct construction of this part of the criminal appeal in which the applicant formulates appeal pleas. The attainment of that objective was preceded by deliberations concerning the substance of the appeal plea itself, the relations between the appeal plea and the grounds of appeal and the functions which the plea fulfils for the course of appeal review. Next, the differences between relative and absolute grounds of appeal and between the various relative grounds of appeal are discussed in the context of the impact of those differences on the formulation of the appeal pleas. Chapter 5 attempts to designate a space in the trial in which the court can commit a given type of failure. This laid the foundations for setting clear limits between the various grounds of appeal. With regard to this issue, i.e., whether there are limits between the grounds of appeal or whether these reasons overlap, the greatest divergences in doctrine and the case-law have emerged. That question raised serious doubts, in particular as to the existence of limits between failure to comply with procedural law in the collection and assessment of evidence and an error of fact. The deliberations also led to the determination of the significance of the failures committed by the court, and thus to the disclosure of the phenomenon of the effects of a given failure on further stages of the proceedings. The description of this phenomenon created the basis for clarifying the principles of constructing pleas, and then for creating the concept of formulating pleas based on these principles. At the same time while conducting the deliberations, the hypothesis of the possibility of making mixed pleas was tested. This dissertation tries to show that the concept of mixed pleas, which some authors once and

now adhere to, is logically incorrect, and it is based on the illusory impression of interlacing between each particular failure. It is clarified that despite the lack of any ban on the use of mixed pleas (and thus their legal admissibility), this should not be done. Subsequently, a thorough substantive examination of each ground of appeal was carried out in order to clarify the rules for the formulation of pleas based on each ground. Each of these chapters resolves problems specific to each ground of appeal and contains many indications relevant to the correct formulation of the pleas. Numerous examples of properly raised specific appeal pleas are also presented. The last chapter of the dissertation was devoted to the restrictions while formulating pleas. That chapter sets out the pleas which cannot be raised and sets out the specific procedural situations which make significantly restricted the applicant's freedom to choose the pleas to be raised.