

Summary of Doctoral Dissertation

Examination of appellate measures in criminal proceedings by the Supreme Court

The provision of Article 183(1) of the Constitution of the Republic of Poland stipulates that the Supreme Court shall supervise the activities of the ordinary and military courts in their rulings. The Supreme Court performs this function in the area of criminal trial based on Article 27 of the Code of Criminal Procedure, under which the Supreme Court examines cassation and appellate measures and other cases as set out in the Act. It is undisputed that the correct determination in which situations the Supreme Court shall examine appellate measures is, in turn, a significant element of the right to a competent court and, therefore, a right protected by the Constitution of the Republic of Poland. This dissertation is focused on these issues.

It is necessary to emphasise that the issue of examination of appellate measures by the Supreme Court has not yet been described exhaustively in the legal literature. In contrast, the discrepancies observed in the jurisprudence of the Supreme Court as well as in the literature on the subject resulted in undertaking a thorough analysis of Article 27 of the Code of Criminal Procedure to determine the normative content of this provision, as a procedural ground for determining the course of further proceedings in the process of examination of appellate measures.

The research process for this objective primarily used the formal-dogmatic method to analyse valid norms of procedural criminal law and, in a specific (related) area, constitutional and public international law. The conclusion made after such an analysis was identified as a research hypothesis, which had to be verified by determining how this norm of conduct applies in individual procedures when dealing with specific appellate measures in the Code of Criminal Procedure. In the respective sections of the dissertation, the research objective was consequently subjected to detailed verification in the context of assessing whether the models and schemes described for the actionability and control of judgments by the Supreme Court are consistent in their function and whether they meet constitutional and convention standards.

The dissertation's structure was subjected to such an objective. The dissertation comprises an introduction, three chapters and a conclusion.

The first chapter presents a comprehensive analysis of the regulation under Article 27 of the Code of Criminal Procedure, while the consideration is also focused on Article 426 of the Code of Criminal Procedure as being crucial in determining the Supreme Court's ability to examine appellate measures. Dogmatic considerations allowed to determine the content of the norm under Article 27 of the Code of Criminal Procedure and to propose a model for the examination of appellate measures by the Supreme Court. This led to the indication that the functional jurisdiction of the Supreme Court to examine appellate measures exists only if it arises directly from the provisions of the law or if a complex interpretation of the provisions of the law brings to such a conclusion while taking into account, the function of a particular appellate measure. However, most importantly, the position of the Supreme Court in a specific proceeding in compliance with the rule of consistency of the legal system.

The second chapter is focused on the Supreme Court's examination of appellate measures in ordinary proceedings, i.e. in appellate and complaint proceedings. As the Supreme Court is an ordinary court of second instance in certain situations (examines appellate measures in vertical instance - e.g. appellate measures against rulings issued by military district courts), there was a need to discuss these proceedings systematically and comprehensively while paying attention to the specific position of the Supreme Court. This chapter not only presents the course of action in these proceedings but also provides the conclusions of the empirical (file) research carried out about the complaint proceedings before the Supreme Court. The second chapter also covers the appellate proceedings carried out by the Supreme Court under Article 441 Paragraph 5 of the Code of Criminal Procedure and Article 547 Paragraph 3 of the Code of Criminal Procedure.

The third chapter covers the appellate procedure in the course of extraordinary proceedings, i.e. in the course of cassation, resumption and complaint proceedings (appeal against the cassation judgment of the appellate court). When discussing the course of appellate proceedings, the issues that raised several doubts in case law and the literature were addressed in particular. For this reason, a detailed analysis was carried out about the principles and grounds of appealability of decisions made in the course of the cassation-related proceedings before the appellate court as well as in

the course of the cassation proceedings before the Supreme Court, with particular reference to the proceeding stage when the judgement on the cassation appeal was delivered. Special attention was paid to examining the appellate measure under Article 538 Paragraph 2 of the Code of Criminal Procedure. For this purpose, empirical research was carried out on Supreme Court files. The actionability rules for judgments and orders delivered in the course of proceedings for the resumption of criminal proceedings were also reviewed, demonstrating the advisability, on the one hand, of limiting the cognition of the Supreme Court - as an appellate court - only to those procedural situations in which the law expressly indicates the Supreme Court as an appellate court (e.g. Article 530 Paragraph 2 of the Code of Criminal Procedure, Article 535 Paragraph 3 of the Code of Criminal Procedure), and on the other hand, stressing that, to a broader extent, it is essential to commence the complaint procedure about judgments on the resumption of proceedings ruled on by the appellate court (Article 547 Paragraph 1 of the Code of Criminal Procedure - as to the costs of these proceedings). Every procedure of this kind was addressed, indicating its significant elements, including the jurisdiction of the appellate court and its composition.

A conclusion outlines the findings that emerged from verifying the research thesis and comments on possible amendments to the content of the current provisions. It is important to note that the adoption of the analysed standard for defining the jurisdiction of the Supreme Court also allowed for the unification of the proceeding method about the examination of appellate measures - especially in the course of extraordinary proceedings, as well as the development and description of the mechanism of appealability of judgments delivered in the course of widely understood cassation proceedings and resumption proceedings. These considerations led to the proposal of explicit criteria for the jurisdiction of the Supreme Court to examine appellate measures in the course of resumption proceedings.

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