

Summary of the doctoral dissertation

“Complaint in enforcement proceedings”

The topic of the presented dissertation focuses on issues related to complaints in enforcement proceedings. It should be indicated that the complaint in enforcement proceedings plays a prominent role as a legal remedy aimed at effective challenging of decisions in the course of such proceedings. The complaint in enforcement proceedings is not - in contrast to the preliminary proceedings - ancillary to the appeal, as there is no appeal in these proceedings.

The principal focus of the considerations undertaken in this thesis is on an assessment of how the Code of Civil Procedure regulates the individual cases of admissibility of complaints against decisions issued in the course of enforcement proceedings. The complaint was characterised against the background of the other legal remedies admitted in the enforcement proceedings.

The topic addressed in this paper has not yet been extensively elaborated and most attention in the literature has focused on the complaint in the examination proceedings.

The main objective set in the thesis was to characterise the legal institution of the complaint in enforcement proceedings. Such an approach to the subject of the complaint has made it possible not only to present its main features, but also to compare this legal institution to other legal remedies provided in the Code of Civil Procedure. Special attention has been focused on the control function of the complaint, which involves the re-examination of the grounds of the contested decision by the court. Considerable part of the thesis is devoted to the changes introduced to the Code of Civil Procedure pursuant to the Act of 4 July 2019. In particular, it focuses on discussing and analysing the cases of the so-called horizontal complaint and the exceptional situations of referring a complaint to the court of second instance. The changes that the Act of 9 March 2023 introduced with regard to the functioning of the complaint in enforcement proceedings, in particular, regarding Article 767⁴ of the Code of Civil Procedure were analysed. Another purpose of this dissertation was to show that the complaint is a non-uniform, heterogeneous institution, scattered in the provisions of the Code of Civil Procedure which requires both changes and streamlining.

The dissertation consists of nine chapters as well as an introduction and conclusion.

The introduction indicates the research objectives and the research methods adopted in the thesis.

The first chapter entitled “General characteristics of enforcement proceedings” presents the characteristics of enforcement proceedings where, among others, the functions of these proceedings and their relation to civil proceedings in general are described. The chapter also discusses issues of an introductory nature relating to the problems of the civil procedure itself.

The second chapter of the thesis is devoted to the discussion of remedies in enforcement proceedings. The characteristics of remedies in enforcement proceedings is based on the classification to ordinary and extraordinary appeals accepted in the literature. The chapter also discusses specific legal remedies: a complaint against the actions of the bailiff, a complaint against the actions of the court registrar, objections against the distribution of the enforcement sum, a complaint against the plan for the distribution of the enforcement sum by the receivership.

The third chapter entitled “The complaint in the system of appeals” presents the legal and procedural institution of the complaint against the background of other remedies in enforcement proceedings. The historical development of this procedural law institution has been outlined. Subsequently, the prerequisites for the admissibility of a complaint are discussed, both in terms of substantive law and formal law. The possibility of curing the formal deficiencies of the complaint was indicated.

The issue of possible appeals against court decisions on complaints against the actions of a bailiff and the settlement of the costs of enforcement proceedings is discussed in the fourth chapter of the thesis.

Chapter five is devoted to the description of the cases of possible appeals against the decisions made in the course of enforcement clause proceedings.

Chapter six, on the other hand, presents issues relating to the possible appeals against rulings issued in the course of cross-border proceedings.

The seventh chapter focuses on the issue of possible appeals against the decisions concerning the commencement of enforcement, possible appeals against the decisions concerning the suspension and discontinuance of enforcement proceedings and possible appeals against the rulings issued during the suspension of enforcement proceedings.

Issues relating to possible appeals against the decisions made in the course of the enforcement of monetary and non-monetary benefits are presented in chapter eight. The chapter also discusses issues relating to the limitation of enforcement procedure.

Chapter nine covers issues relating to the possible appeals against the decisions made in the course of enforcement with the Treasury and entrepreneurs.

The thesis ends with conclusions formulated in the form of *de lege lata* conclusions which emerge from the analysis of the current regulation of remedies, in particular the complaint in enforcement proceedings. Proposals of legislative changes in the scope of the research are included in the form of *de lege ferenda* proposals.