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LEGAL REMEDIES AGAINST CIVIL DECISIONS
REVIEW OF ADMINISTRATIVE DECISIONS
ENFORCEMENT OF JUDGEMENTS
INSOLVENCY PROCEEDINGS

RECOURSE AGAINST JUDGMENTS

CATEGORIES OF RECOURSE SYSTEMS

- × Appeal
- × Revision
- × Cassation

APPEAL

- × A court considers
 - + Questions of law
 - + Questions of fact

- × Replacement of the decision of the court below with the own decision of a court of appeal

REVISION

- ✘ A court considers
 - + Only questions of law
 - + Not questions of fact

- ✘ A court of revision can replace the decision of the court below with its own

CASSATION

- ✘ A cassation court considers
 - + Only questions of law
 - + Not questions of fact
- ✘ A defective decision
 - + Could be quashed and the case remitted for the fresh decision
 - + Cannot be substituted by the decision of the cassation court

CATEGORIES OF RECOURSES

- × Ordinary recourse

 - + Against decisions which are not in legal force

- × Extraordinary recourse

 - + Against decisions in legal force

RECOURSES IN THE CZECH REPUBLIC

- × Appeal („odvolání“)
- × Final recourse („dovolání“)
- × Action for the reopening of the trial („žaloba na obnovu řízení“)
- × Action for nullity (žaloba pro zmatečnost“)

APPEAL I.

- ✘ A form of recourse against first instance decision
 - + Judgments – except so called petty cases (up to 10000 Kc)
 - + Orders – more exceptions
- ✘ Time limit – 15 days
- ✘ Reasons – questions of law, questions of fact

APPEAL II.

- × Appellate court is
 - + County court, if the first instance court was the district court
 - + Superior court, if the first instance court was the county court
- × Proceedings is divided between a court of first instance and appellate court
- × Appellate court can first instance decision
 - + Confirm
 - + Replace
 - + Quash

FINAL RECOURSE I.

- ✘ A form of recourse against (second instance) appeal decision
- ✘ About final recourse always decides the Supreme court of the Czech republic
- ✘ Admissibility
 - + Seldom against procedural decisions
 - + Against judgments
 - ✘ That replaces first instance decision
 - ✘ That confirms first instance decision, if there is a question of fundamental legal importance
 - + Value of the case must be 50000 Kc or 100000 in business cases

FINAL RECOURSE II.

- × Supreme courts decides usually without public hearing
- × Cassation principle
 - + Only questions of law
 - + Supreme court
 - × can quash the appellate decision
 - × not replace them

ACTION FOR THE REOPENING OF THE TRIAL

- ✘ Extraordinary recourse against first or second instance decisions
- ✘ Reasons
 - + New fact or evidence, that wasn't known in the original proceedings
 - + It is possible to realize evidence that couldn't be realized in the original proceedings
 - + In both cases new fact or evidence must bring about better judgment for a party

ACTION FOR NULLITY

- ✘ Extraordinary recourse against first or second instance decisions
- ✘ Reasons – the heaviest errors of proceedings, f. e.:
 - + Absence of jurisdiction
 - + Absence of a capacity to be a party
 - + Breach of a principle of res iudicata etc.

REVIEW OF ADMINISTRATIVE DECISIONS

TWO WAYS OF REVIEW

- ✘ Proceeding according to the part V. Civil procedure code („CPC“)
- ✘ Proceedings according the Code of administrative justice („CAJ“)

PROCEEDINGS ACCORDING TO THE PART V. OF THE CPC

- ✘ Review of decisions in private law cases
 - + Decisions of the Czech telecommunication office in cases of paying fees for using telephones, cable TV etc.
 - + Decisions concerning expropriation etc.
- ✘ A civil court can't quash the administrative decision
- ✘ A court's judgment replaces the administrative decision

PROCEEDINGS ACCORDING TO THE CAJ

- × Protection of public rights
- × Kinds of proceedings
 - + Actions against administrative decisions about public rights
 - + Protection against the inaction of an administrative authority
 - + Protection against an unlawful interference of an administrative authority
 - + competence complaints
 - + Election matters and matters of local referendum
 - + Matters concerning political parties

ENFORCEMENT OF JUDGEMENTS

NOTION OF ENFORCEMENT

- × Use of public coercion to secure a claim from a execution title
- × Enforcement is regulated in
 - + CPC – Part six
 - × Enforcement is realized by civil courts
 - + Execution order (law no. 120/2001)
 - × Enforcement is ordered by a court and realized by a private executor

EXECUTION TITLES

- ✘ Enforceable court decisions granting a right, imposing an obligation or affecting property
- ✘ Enforceable decisions by arbitrators and settlements approved by them
- ✘ Notarial and executorial deeds with consent to enforceability drawn up in accordance with specific Acts
- ✘ Enforceable decisions by public administrative authorities
- ✘ Decisions by institutions of the European Communities;
- ✘ Other titles whose judicial enforcement is permitted by law

MEANS OF EXECUTION ON PECUNIARY FULFILLMENT

- ✘ Attachment of salary and other incomes
- ✘ Compulsory debit
- ✘ Sale of movable and immovable assets
- ✘ Sale of a business
- ✘ Creation of a judicial lien on immovable property

MEANS OF EXECUTION ON NON-PECUNIARY FULFILLMENT

- × Eviction
- × Seizure of assets
- × Division of common property
- × Compulsory performance of work and action

INSOLVENCY PROCEEDINGS

NOTION OF BANKRUPTCY AND INSOLVENCY PROCEEDINGS

× Bankruptcy

- + Inability to make payment
- + Over-indebtedness
- + (more than 1 creditor in both cases)

× Insolvency proceedings

- + Its aim is the best possible, equal satisfaction of the creditors

WAYS OF SOLUTION TO A BANKRUPTCY

- × „Bankruptcy“ („konkurs“)
- × Reorganization
- × Discharge form debts