

Certain aspects of proceedings in cassation instance in ensuring a fair trial to a person

INTRODUCTION

The right to a fair trial is a fundamental right of every person. However, it would be too myopic to consider these rights only from the perspective of individual rights. The right to a fair trial provides for such important basic elements of public existence as legitimate expectations, prohibition of arbitrariness and safety. Ensuring the right of every individual to an independent and competent court ensures that society has the opportunity to develop in the long term and to achieve it without social turmoil. Cassation proceedings are the last instance of legal proceedings which, in a democratic society, guarantees that a court decision is lawful, reasoned and fair. Everyone whose case is heard in cassation must be convinced that the decision taken is not only in line with the legal framework, but also that it is democratic, it is based on justice and is in line with human rights. Because it is understandable that in any legal claim proceedings where two parties often have conflicting interests, it is a great challenge to strike a balance between the interests of both parties. The same is true in criminal proceedings. It will be difficult to expect satisfaction with the sentence from the accused, especially if he/she has not pleaded guilty, or, conversely, from the victim if the accused is acquitted. However, the loser must also be convinced that the court's decision is the best possible outcome of the dispute settlement attained in a balanced and judicial process.

CONCLUSION & IMPLICATIONS

As a result of this research the authors have made the following conclusions:

1) the objective of the court is not only to resolve civil disputes or to decide on the guilt of the accused and the applicable punishment, but also to ensure public confidence in the court.

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ABSTRACT: *The right of a person to a fair trial is absolute. This right has a long democratic history, without which no democratic society can be imagined. Without this constitutional scope, the right to a fair trial is the basis for the sustainable development of society, as it ensures legal stability. Litigation in the cassation instance is on the top of right-to-court pyramid..*

The study focuses on the issues of cassation litigation. The issues of the right of parties to file a cassation appeal (cassation protest) in civil and criminal cases as well as the jurisdiction of the court in deciding the admissibility of a cassation appeal (cassation protest) are analyzed within the multidisciplinary perspective.

The aim of the research is to study the legal framework, which determines the right of a party to submit a cassation appeal (cassation protest) in civil and criminal case in the context of court jurisdiction, when deciding on whether to adopt it in order to make proposals for enhancement of the legal framework.

Key words: *cassation, court proceedings, right to a fair trial*



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In the long run, it is trust in the court that creates the legal background in which every member of society (a natural or legal person) feels confident about the protection of their rights and interests, which in turn maintains a high level of legal awareness. These aspects are essential for the sustainable development of society and strengthening of democratic values;

2) cassation proceedings are the last instance in the national judicial system in which a legal entity can find confidence that his/her case has been heard in a fair court. The Court of Cassation, in essence, provides a convincing and legally sound answer as to the legality and validity of a judgment given in a particular case concerning the rights and interests of a particular person. Consequently, the cassation instance process must be unambiguous, safe and reliable. Therefore, superiority of procedural economy is not allowed in the cassation instance. The enhancement of the legal framework should be carried out in the direction of strengthening the rights of a person, including stricter criteria in the argumentation of non-acceptance of a cassation complaint;

3) the proceedings in the cassation instance contain two equally important levels. Firstly, it is the last instance of the judicial system, which ensures the final settlement of the dispute and provides assurance on the legality of the settlement of the dispute, guaranteeing the individual's right to a fair trial. Secondly, it has led to the development of jurisprudence, providing new insights into the regulation of substantive and procedural law;

4) court independence in deciding on the acceptance of a cassation complaint and the right of a person to a fair court are not competing legal principles;

5) the legal regulation of cassation proceedings must be proportionate, and the legislator must be able to balance the provision of the right of persons to a fair trial with the capacity of the court system.