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***Rectification of judgements in civil proceedings***

**SUMMARY**

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The doctoral thesis titled “Rectification of judgements in civil proceedings” is an attempt at analysis of the institution that allows to eliminate errors in court judgements. Despite appropriate technical and organizational conditions, as well as the judges’ utmost diligence and professionalism, various court errors can still occur at each stage of civil procedure, thus making the passed judgements flawed in many aspects. Out of consideration for the best interest of participants in the proceedings, as well as the entire system of justice, the Civil Procedure Code provides for various methods of rectifying errors in court judgements.

Judgement rectification, as a legal institution, involves amending the wording of a judgement in such a way so as to eliminate expressions that render the judgement incomplete or ambiguous (questionable or overly complex), as well as clerical and accounting errors, and other obvious mistakes. Those seemingly insignificant flaws might, in fact, make it impossible to enforce a judgement, thus distorting the principle of the right to a fair trial, as the individual seeking legal protection, despite the dispute being settled, is unable to execute his or her rights. On the other hand, even those flaws that, in general, should not threaten the legal effectiveness of a specific judgement, are undesirable, both from the point of view of the parties to the proceedings and the authority of the system of justice.

The doctoral thesis consists of a list of abbreviations used by the author, the introduction, eight chapters, final conclusions and bibliography. The first chapter is focused on the very concept of court judgement. The author provides a definition to serve as a starting point for further analysis of that decision-making act. Then the structure of a judgement document is discussed. This chapter also brings up the issue of a judgement’s correctness. The author describes possible reasons behind errors in judgements, along with fixing solutions. The second chapter discusses the historical background of judgement rectification, the origins of the institution and its evolution in the Polish legal system. In this case, codifications of laws implemented by the partitioners proved to be of substantial importance, as they provided the basis for modern Polish legislation that regulates the above-mentioned institution. Comparative legal analysis, conducted by the author in this chapter, is focused on discussing the judgement rectification institution in international law and selected European systems of civil procedure law, namely: French, Italian, Spanish, English and Russian. The third chapter is aimed at explaining the essence of judgement rectification, hence the definition proposed by the author. By discussing the purpose and functions of that institution, the author highlights its vital importance in civil proceedings. Further in that chapter, legal character of judgement rectification is discussed in details, taking into account the *lata sententia desinit*

*esse iudex* principle, as well as the fact that courts are legally bound by their own decisions. The author also refers to the constitutional legal character of individual rectifying measures. In fourth chapter, procedural steps subject to rectification are discussed. It should be remembered that not only judgements, but also other acts in legal proceedings can be affected with such issues as obvious mistakes, ambiguous wording or incompleteness. This chapter explains which procedural acts can be rectified and indicates the legal basis for applying that mechanism to individual procedural steps. Following those introductory chapters, the author moves on to characterization of individual rectifying measures, i.e. correction, supplementation and interpretation. Each of those measures is discussed in a separate chapter.

The analysis of correction, supplementation and interpretation carried out by the author of this thesis is presented in accordance with the order of corresponding legal regulations as provided in the Code. The fifth chapter is devoted to the institution of judgement correction. The said institution is regulated by Art. 350 of the Civil Procedure Code, pursuant to which the court can correct inaccuracies, clerical and accounting errors, and other obvious mistakes *ex officio*. The author explains in details which errors can be corrected and emphasizes the fact that classification of possible errors to be corrected by the court, listed in Art. 350 of the Civil Procedure Code, is exhaustive. No other shortcomings in a court judgement can be addressed by way of correction. However, the scope of failures to be corrected under Art. 350 of the Civil Procedure Code is a broad one. This is due to the fact that the said Article allows the court to correct not only inaccuracies and clerical or accounting errors, but also “other mistakes.” The term should be understood as any and all court mistakes in the wording of a judgement other than inaccuracies and clerical or accounting errors. It should be, however, emphasized that all of the above-mentioned defects in a judgement that a court can correct under Art. 350 of the Civil Procedure Code must be characterized with their obviousness. If that characteristic is absent, correction cannot be applied. As part of the analysis of the institution of judgement correction, the thesis provides a detailed description of the entity authorized to correct judgements of courts of either first or second instance, as case may be, along with the scope of such correction and the corresponding proceedings.

Supplementation of a judgement is regulated by Art. 351 of the Civil Procedure Code. A party can apply for supplementation of a judgement if the court has not decided about the full scope of demands to be satisfied, has not made the decision immediately enforceable or has failed to include in the judgement an additional statement that should have been included

ex officio, as per the applicable statutory provisions. Article 351 of the Civil Procedure Code mentions three situations when a judgement must be supplemented. The first one occurs when the court has not decided about the full scope of demands to be satisfied. Each judgement should include a decision concerning the full scope of satisfying the demands, i.e. a comprehensive, coherent and unambiguous statement specifying to what extent the demands, which have been put forward, are to be satisfied or not. Another situation that makes supplementation of a judgement justified is the court's failure to make the decision immediately enforceable. It should be pointed out that supplementation of a judgement with regard to its immediate enforceability, mentioned in Art. 351 of the Civil Procedure Code, applies to situations when the order of immediate enforceability should be declared by the court ex officio. However, in case the order of immediate enforceability is declared following an application, it is qualified as the court's failure to decide about the full scope of demands to be satisfied. The third case when a judgement can be supplemented is the court's failure to include an additional statement that should have been included ex officio, as per the applicable statutory provisions. The court's obligation to include in a judgement an additional statement, not requested by the parties, might arise from any applicable statutory provisions. Therefore, the court's failure to include in its judgement an additional statement that should have been included ex officio might be due to its non-observance of applicable provisions of, firstly, the Civil Code and the Family and Guardianship Code, secondly, the Civil Procedure Code, and thirdly, other Acts. As regards the institution of supplementation of a court judgement, the doctoral thesis focuses also on the entity authorized to make such supplementation, the subject of supplementation and the corresponding proceedings.

The seventh chapter is devoted to the institution of interpretation of a court judgement, regulated by Art. 352 of the Civil Procedure Code. In accordance with the said provision, the court that has passed the judgement shall resolve any doubts with regard to its wording by way of providing interpretation. The analysis of judgement interpretation as a legal institution is preceded by the definition of interpretation in the context of interpreting judgements. Then the author discusses the prerequisite for interpretation of a court judgement. Art. 352 of the Civil Procedure Code points out to a subject-related prerequisite that makes interpretation of a judgement justified, i.e. doubts with regard to its wording. Further in that chapter, the entity authorized to provide such interpretation is discussed, along with the subject of interpretation and the corresponding proceedings.

The last, eighth chapter of the thesis discusses the issues associated with abuse of procedural law. Due to cases of dishonesty among the parties to proceedings and pursuant to

the Act of July 4, 2019 amending the Civil Procedure Code Act and some other Acts, regulations that are supposed to counteract abuse of procedural law were implemented, namely: Art. 4<sup>1</sup> of the Civil Procedure Code as the general clause and detailed provisions in Articles 53<sup>1</sup>, 117<sup>2</sup>, 186<sup>1</sup>, 191<sup>1</sup>, 226<sup>2</sup>, 350<sup>1</sup> and 394, § 1, item 1, Art. 394<sup>3</sup> and 398<sup>2</sup>, § 4 of the Civil Procedure Code, and Art. 14a of the Act of July 28 on court fees in civil cases. Due to the fact that abuse of procedural law can also apply to proceedings aimed at judgement rectification, Art 350<sup>1</sup> of the Civil Procedure Code was implemented, including the clause concerning abuse of procedural law in relation to correction of a judgement (Art. 350<sup>1</sup>, § 1–3), as well as its supplementation and interpretation (Art. 350<sup>1</sup>, § 4). In this chapter, the author explains when exactly we deal with abuse of regulations concerning rectification of court judgements and evaluates the implemented solutions. At the end of the doctoral thesis, the author presents the final conclusions.

To summarize, the doctoral thesis is an attempt at discussing the institutions of correction, supplementation and interpretation of court judgements in civil proceedings as methods of eliminating errors in the wording of judgements, including expressions that render the passed judgement incomplete or ambiguous, clerical and accounting errors, and other obvious mistakes. It presents the scope and aims of the above-mentioned legal institutions, along with the methods of applying for their implementation in a particular case, the process of considering such applications, and the resulting consequences.

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