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More rapid and efficient jurisdiction in the trials of courts of appeal

Regarding the practice of courts of appeal prior to the entrance into force of Act CXXX of 2016 on the Code of Civil Procedure, on the 1st January of 2018, the chambers of second instance often annulled the decisions of the courts of first instance and ordered them to carry out once more a procedure and render a decision in the end. However, the aforesaid practice often lead to unreasonably dragged on procedures.

Even the previous Act on the Code of Civil Procedure authorized the courts of first instance to exercise their own discretion relating to the elimination of their faults during the time of jurisdiction of the court of second instance and only told the court of first instance to repeat its procedure when it seemed necessary and justified.

Under the previous Act on the Code of Civil Procedure, it was a common practice that in case the court of appeal found the expert's opinion – on which the decision of the court of first instance had been based – contradictory, solicitous or uncomplete, instead of summon the expert to its trial in order to remove any doubt, it nullified the decision of the court of first instance and ordered it to bring another action. In doing so, the court of appeal prescribed the point of views to take into consideration while completing the expert's opinion. The Act CXXX of 2016 on the Code of Civil Procedure introduced essential innovations relating to the practice of annulation of the courts of appeal.

Pursuant to the provisions of the previous Act on the Code of Civil Procedure, the courts of appeal had the competence to set aside the decision of the court of first instance in lack of application of any of the parties. Whereas, according to the rules of procedure of the new Act on the Code of Civil Procedure, the courts of appeal cannot deliberate causes of annulation apart from the ones which are compulsory, for example other procedural irregularities, if the appellant has not invoked them in the appeal.

In such case, if the court of appeal reveals that if any kind of procedural irregularity occurred during the procedure of the court of first instance, the court of appeal is obligated to inform the parties of its revelation. Nevertheless, these irregularities can only be taken into consideration while rendering a decision if the appeal particularly demanded it in the appeal. In addition, a further innovation of the new Act on the Code of Civil Procedure is the following: if the court of appeal adopts a different position on the basis of substantive law, and draws the conclusion that the organization of procedure was not adequate, the court appeal has to inform the parties of its conclusion, but cannot consider it as part of the grounds of the decision unless one of the parties requests the court of appeal to do so.

Additional innovation of the new Act on the Code of Civil Procedure is the provision relating to the absence of application for amending the decision of the court of first instance. In this case the appellant can solely request the annulation of the decision of the court of first instance.

Finally, the new main rule of the new Act on the Code of Civil Procedure is that the court of appeal does not carry on a trial, so it is useful for the acceleration of the procedures. In all, the number of instances when the court of appeal is authorized to hold a trial have decreased compared to the previous legislation in field.

In conclusion, the new procedural rules reviewed above can affect in total that the trials commenced under the valid legislation (after the 1st January of 2018) can be finished faster and won't drag on because of the repetition of the procedure of the court of first instance. The reason behind this is that the

possibilities of annulation were reduced which could urge the courts of appeal to hear and determine proactively appeals.