

Abstract of the doctoral dissertation

“Complaint in enforcement proceedings”

The topic of this dissertation focuses on issues related to the main legal remedy available in enforcement proceedings - a complaint. Therefore, it should be mentioned that a complaint, as a remedy in the course of enforcement proceedings, is of considerable importance for assessing the effectiveness of the appealability of decisions in the course of such proceedings. This is because, unlike in exploratory proceedings, a complaint is not merely an accessory remedy to an appeal.

The main focus of the deliberations is not only on how to regulate the various cases that are appealable by way of a complaint in the course of enforcement proceedings. This is because the complaint and the other means of appeal observed in the course of enforcement proceedings were also characterized, which made it possible to compare them.

What is also important, the indicated topic has not yet been the subject of a complete study and other authors focus mainly on the complaint in exploratory proceedings, while marginalizing the complaint in enforcement proceedings. Some of them, of course, also discuss the remedy in question, but they do it either in a piecemeal manner or too narrowly.

The main purpose of this dissertation was to characterize the institution of a complaint in the course of enforcement proceedings, which made it possible not only to present its main features, but also to compare it with other remedies. Particular attention was paid to the review function of the complaint, which consists in a re-examination by the Court of the grounds for the appealed decision. The dissertation also takes into account the changes that have taken place as a result of the amendment of July 4, 2019; in particular, it focuses bringing attention to the expansion of the cases of the so-called horizontal complaint and the minimization of the cases of complaints to another panel of a court of second instance. The purpose of this dissertation was also to demonstrate that a complaint is a heterogeneous and non-uniform institution. Also, the need to evaluate the existing solutions relating to the issue of complaints in the course of enforcement proceedings and proposals for their changes should not be overlooked.

This dissertation consists of three chapters and a conclusion.

The first chapter was titled “A complaint in the system of means of appeal.” The chapter presents a historical outline of the complaint and its characteristics. The chapter also focuses on the prerequisites for the admissibility of a complaint as well as its formal and fiscal conditions, and the time limit for filing a complaint. The characteristics of a complaint made it possible not only to present its main features, but also to formulate its definition.

The second chapter is titled “Means of appeal in the course of enforcement proceedings” and indicates the various means of appeal occurring in the course of enforcement proceedings, which allowed to better illustrate the position of a complaint as a means of appeal in the course of enforcement proceedings.

The third chapter is titled “The contestability of decisions issued in the course of enforcement proceedings.” The chapter focuses on a description of individual cases that are appealable by way of a complaint during the course of enforcement proceedings. The chapter briefly describes cases that are appealable and focuses on the issue of appealability of the decisions themselves, indicating mainly its scope. The dissertation notes, however, that the cases described in that chapter do not constitute an exhaustive list, because no such list exists.

In order to comprehensively discuss a complaint as a means of appeal in enforcement proceedings, several research methods were used.

The first method is the formal and dogmatic method, which was used to analyze the sources of domestic law concerning the means of appeal in question. An analysis of the norms of Polish law, including first of all the norms contained in the Code of Civil Procedure, made it possible to formulate conclusions.

The historical and legal method was also used, which made it possible to present the evolution of the complaint and illustrate its various forms in the 20th century.

One should also not overlook the theoretical and legal method. This is because the dissertation also analyzed scientific studies, including the views presented therein, as well as the positions expressed in judicial decisions, in particular those of the Supreme Court.

An analysis of the norms of domestic law, the position of the doctrine, and judicial decisions made it possible to formulate conclusions, which are indicated at the end of each chapter and the work. The conclusions will not only support the thesis that the position of a complaint in the course of enforcement proceedings as the main remedy is not negligible, but will also make it possible to point out that a complaint is a non-uniform institution.

The conclusions based on an analysis of the existing solutions also allowed to present *de lege ferenda* propositions.

