THE ROLE OF THE SUPREME COURT IN CREATING PRECEDENTS IN SLOVENIAN CIVIL PROCEDURE

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I. THE "REVISION" AS A FURTHER APPEAL ON POINTS OF LAW – INTRODUCTORY REMARKS

The revision (revizija) in Slovenian legal system is a further appeal on points of law, similar to the remedy of the same name in e.g. German or Austrian law and can also be compared to the cassation in e.g. French or Italian law.[1] It enables for access to the Supreme Court and thereby strives to achieve that this court will be able to effectively fulfil its constitutionally determined role of the supreme judicial authority, responsible for the unifying of case law. In Slovenian law, a revision is considered to be an extra-ordinary legal remedy. It neither prevents the enforceability of the judgment it is directed against, nor its becoming res iudicata (Art. 369, Civil Procedure Act – hereinafter CPA). However, if the revision is well-founded, the attacked judgment can be altered or set aside. The grounds for revision consist of errors in substantive and procedural law(Art. 370, CPA). Findings of facts cannot be subject to review in the Supreme court.

II. LATEST REFORM AND THE INTRODUCTION OF THE "LEAVE TO APPEAL SYSTEM"

1. Guidance and development of law as the prevailing purpose of the Supreme court's judgments

With the CPA amendment in 2008, the system of the revision has been considerably reformed.[2] Previously, the decisive admissibility criteria for the revision was solely the amount in dispute (whereby this was set low – cca. 4000 EUR, causing that the access to the Supreme Court was widely available, which resulted in constantly growing backlogs in the Supreme Court).

With the 2008 reform, the legislator has changed the criteria of admissibility of the revision. The revision now amounts to a remedy, the availability of which depends rather on the discretion of the Supreme Court. The importance of the role of the Supreme Court at the unifying of case law and the giving of guidance for the application of law is emphasized.[3] Now, the revision is admissible only if a leave has been granted by the Supreme Court. The Supreme Court is supposed to give such permission, if the

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[1] See Ude L., Civilno procesno pravo [Civil procedure] (Ljubljana, 2002), p. 337.

[2] See e.g. Ude L., `Reforma revizije in zahteve za varstvo zakonitosti´ [A reform of remedies of revision and protection of legality], Podjetje in delo, 2007, No. 6-7, p. 1078 et seq., Galič A., `Za reformo revizije v pravdnem postopku´ [In favour of a reform of revision in civil procedure], Pravna praksa, 2007, No. 43 (suppl.).

[3] See: The Explanatory memorandum of the Ministry of Justice to the draft amendment of the Civil procedure Act, EVA:2007-2011-0001, No. 007-24/2006, http://www.mp.gov.si/fileadmin/mp.gov.si/pageuploads/2005/PDF/zakonodaja/2007_12_17_predlog_zsd_ZPP.pdf , (2.7.2008); p. 155.

case raises a question of law of fundamental significance, or if the development of law or the preservation of uniformity of case law requires a decision by the Supreme Court (Art. 367.a, CPA). The criterion of amount in controversy has been retained only partially. If the amount in dispute does not exceed 2000 EUR or if it concerns a matter, where a revision is excluded already by statute (e.g.: small-claims cases, provisional and protective measures, enforcement of judgments proceedings, certain non-contentious procedures) the revision is inadmissible per se and a leave to file a revision cannot be granted. On the other hand, if the amount in dispute exceeds 40.000 EUR (200.000 EUR in commercial cases), the revision is admissible already by statute and it is not necessary for the applicant to obtain a leave from the Supreme Court (Art. 367/2, CPA). But, the limit is set to such high amount, that it is clear that this criteria became just an auxiliary one and that it was the legislator's goal to achieve that the majority of revisions, dealt with by the Supreme court, will be those, where it was necessary to first obtain the leave to file it.[4] Thereby the legislative goal of this remedy has obviously shifted – previously the interest of particular parties was in focus and an access to the Supreme Court was admissible if the matter was of sufficient significance from the viewpoint of the parties (the amount in dispute).[5] Since the 2008 reform, this remedy serves predominantly the interest of jurisprudence as a whole. Whether the leave to file a revision should be granted, depends on the significance of the case from the objective point of view, and this significance should, in any case, go beyond the particular case.[6] It is concerned with the question of preserving or achieving the uniformity of case law or with achieving that the highest judicial authority will have an opportunity to resolve an important legal question and thereby contribute to the development of law.[7] The fact

[4] In my opinion it would however be more appropriate if the criteria of the amount in controversy was abolished entirely. The existence of two parallel systems – namely that in principle, revision is admissible only if leave to appeal is granted (under the precondition that the case raises issues of general importance), but that in cases with a high amount in controversy, revision is admissible per se, leaves an impression that the doors of the Supreme court are left widely open only for rich parties and big commercial companies (it will usually be their controversies, which will exceed 40.000 or 200.000 EUR, respectively). Besides, a question may be put, whether it is really appropriate that the amount in controversy is the only criteria for the determination of subjective importance of the case. Are certain non-monetary disputes (such as paternity or custody cases) not equally important? And finally, partial retaining of the amount in controversy as a criteria for admissibility of access to the Supreme court creates an erroneous impression in the public opinion that the essence of the latest reform is just the 1000% (from 4.000 to 40.000 EUR) lifting of the amount which is barrier for the admissibility of revision. Thereby it remains neglected that the vast majority of revisions in the future will be those, which will be admissible on the basis of the granting of a leave. (such an impression follows e.g. from the arguments of Grgurevič N., "Vpliv predlaganih sprememb ZPP na vlogo odvetnika v pravdnem postopku" (Influence of proposed amendments of the CPA on the role of attorneys in civil procedure), Podjetje in delo, 2007, No. 6-7, p. 1092.

[5] The Explanatory memorandum of the Ministry of Justice to the draft amendment of the Civil procedure Act, op. cit., p. 156.

[6] Wedam Lukić D., Ali naj bo dovoljenost revizije v diskreciji Vrhovnega sodišča [Should the admissibility of revision be left to a discretion of the Supreme court], Pravna praksa, 2007, No. 36, p. 9.

[7] The Explanatory memorandum of the Ministry of Justice to the draft amendment of the Civil procedure Act, op. cit., p. 157.

that the appellate court may have decided the case erroneously is not, therefore, a sufficient ground to grant leave. In this way, the Supreme Court is able to concentrate its resources to the questions of general importance.[8]

The rationalisation and reducing back-logs is not the only goal of the reform. The reform foremost wishes to strengthen the constitutional role of the Supreme court– the role of unifying the case law and to enable the highest authority of judicial branch of the state power to contribute to the development of law and to offer guidance for the lower courts. One should however note that these goals are interdependable. To put it simply: it cannot be expected from the Supreme court to be able to "make good law" if the case load is too big.[9] The number of cases, which the Supreme court needs to deal with comprehensively, must be relatively low and in such manner the Supreme court judges may fully concentrate their legal research, debate and reasoning to the cases, which bear general importance. The constitutional role of the Supreme court can be effectively frustrated not only in case if the access to the Supreme court is totally closed. Just as effectively, however maybe not so evident on the first sight, the constitutional role of the Supreme court may be frustrated also in case if the law leaves doors to the Supreme court too widely open.

2. Which court and in what kind of procedure should decide whether to grant a leave

In the last decade, many Supreme court judges have repeatedly raised warnings that the reform is badly needed and that the court cannot any longer cope with excessive back-logs and constantly rising number of newly filed cases.[10] The necessity of the reform has also been acknowledged by legal scholars.[11] The opinions however differed as to the question, who and in what kind of procedure should decide whether to grant leave to appeal. Different models were considered: The first option was to implement a system, in which a decision whether to grant a leave to file a revision should be made ex officio by the court of appeals when it delivers its judgment (whereby there are two sub-variants; depending on whether an appeal to the Supreme court should be admissible in case if the court of appeals refuses to grant a leave).[12] Such a system is

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[8] The solution for the Supreme court's back-logs, should not be found in appointing additional Supreme court judges. Maybe in this way back-logs could really be diminished. However for the Supreme Court to effectively fulfill its role, it is of paramount importance that its jurisprudence is trackable and that it finds a proper response both in the jurisprudence of lower courts as well as in scholars' commentaries. Besides, it is also necessary to assure that the case law of the Supreme court itself should be uniform. It is of paramount importance that the Supreme court in the first place keeps an overview of its own case-law. That is why the number of judgments it delivers should not be excessive.

[9] Therefore, simplified views that the adoption of new system means a dramatic deterioration of a level of judicial protection (in that sense: Jenull H., Kapitulacija [A surrender], Pravna praksa, 2007/28, p. 31), must be rejected.

[10] E.g. Interview with F. Testen, the president of the Supreme Court, 26 Pravna praksa, 2007, No.30, p. 6.

[11] See e.g. Ude, Reforma…, op. cit., p. 1078 et seq., Wedam Lukić, op. cit., p. 9, Galič, op. cit., p. IV.

[12] Another possibility could be that the decision whether leave to file a revision is granted should be made by the court of appeals but only upon a motion of a party made

characteristic also for e.g. Germany (with the possibility to appeal against the decision not to grant a leave for revision; Par. 544, ZPO) and Austria (where the decision of the court of appeals as to the admissibility of revision is final; Par. 508, ZPO).[13] In Slovenia, such a solution has been adopted for labour cases already in 2004.[14] The second option was to adopt a solution to vest jurisdiction to grant a leave to file a revision to the Supreme court, whereby the appellant would need to file a complete revision already in the first step. This system could be described as a one-step procedure, at least from the viewpoint of the appellant. The appellant namely needs to file a fully reasoned revision and then waits if the Supreme court will decide to deal with it on merits. One should however note that this system is "one-step" necessarily only from the side of the appellant. From the viewpoint of the Supreme court, the procedure can still be divided in two consecutive steps; in the first step, a (narrower) panel would decide whether to grant a leave to appeal and if the grant to appeal was granted, another session of the Supreme court would follow, in which a (full) panel would decide the merits of the revision.[15] The third option (and this is the one that finally prevailed) was (just like with the certiorari system at the US Supreme court[16]) entirely to separate procedure for granting the leave to file the revision on one hand and procedure for deciding the merits of the revision on the other hand, both from the viewpoint of the appellant as well as from the viewpoint of the Supreme court. The party must first file a motion to grant a leave to revision. This motion must be focused on arguments concerning the objective importance of the case (unsettled case law, important legal question, departure from uniform case law…). Only if the Supreme court decides to grant the leave, the appellant then prepares the fully reasoned revision, focusing on the arguments concerning the violation of substantive and procedural law.

As already mentioned, the legislator has finally decided to adopt the last mentioned solution (Art. 367.b, CPA). It considered this solution to be most appropriate both as the matter of principle as well as from the viewpoint of rationality. On the principled level, the total separation of the motion to grant a leave to file a revision on one hand, and filling a revision on the other hand, most explicitly shows that the criteria for granting a leave (importance of the case from the objective standpoint) have almost nothing in common with the criteria for deciding the merits of the revision (a question whether the lower court has erroneously applied law in the present case).[17] By entirely

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after the judgment of the court of appeals is delivered. This approach however has not been considered.

[13] Ude, Reforma…, op. cit., p. 1085.

[14] Art. 31 of the Labour and Social Courts Act; The CPA amendments of 2008 abolished this special rule for labour disputes and the system is now uniform both for civil and commercial as well as for labour cases – see infra.

[15] Wedam Lukić, op. cit., p. 10, though without any comparative legal aspects. In essence, such a system is adopted e.g. in Finland and Sweden See: Swensson B., Managing the flow of appeals - – Swedish experiences; available at: www.at.gov.lv/fails.php?id=378 (5.6.2008)

[16] See e.g. http://www.supremecourtus.gov/ctrules/ctrules.html. With the modification that also appellate courts can grant a leave to appeal, this system is applied also e.g. in England (House of Lords Practice Directions Applicable to Civil Appeals; 1996).

[17] See: The Explanatory memorandum of the Ministry of Justice to the draft amendment of the Civil procedure Act, op. cit., p. 156

separating issue of whether a leave to file a revision should be granted from the preparation and then examination of the merits of the revision, the legislator strived to emphasize the change of paradigm from serving individual interests of correct judgment in the particular case to the general interests of development of law and uniformity of jurisprudence. Besides, the "two steps" procedure was considered to be more rational. On the first sight one could doubt how it can be more rational to double the number of procedural acts. It should however not be neglected that in the vast majority of cases, the grant to file a revision will not be granted (the legislator estimates, relying on the experiences from abroad, that only in about 5-10 % of cases shall the leave to file a revision be granted). It cannot be rational to force appellants to prepare (and to pay their attorneys for that work) the fully reasoned argumentation of the merits of the revision if it can be expected that in more than 90% of cases, the Supreme court will not even consider these merits (and also in cases, when the leave to file a revision is granted, it will often be constrained only to certain issues and not to all issues, raised by the appellant). Also from the viewpoint of the Supreme court it is more rational first to deal with shorter, more compact motions for granting a leave to appeal, where the argumentation is concentrated only on the criteria for the admissibility of the revision and is not burdened excessively also with criteria concerning the (supposed) erroneous application of law in the given case.[18] True, from the viewpoint of rationality, the solution that the leave to file a revision would be granted by the appellate court within its judgment, seems to be the most appropriate. But only in case if no appeal is allowed against the decision of the court of appeals not to grant a leave to file a revision (such as in Austria). However, doubts were raised whether such a solution would be (as different appellate courts might apply considerably different standards of interpretation of admissibility criteria), compatible with the constitutional request of equality before the law.[19] On the other hand, it is the Supreme court which has better overview of the general importance of cases and of the uniformity of case law between different appellate courts and also a better possibility to estimate with what number of admissible revisions the Supreme court can cope with. Besides, if decisions whether to grant a leave to file a revision are left for appellate courts, a "fear from the responsibility of the last word" might result in the fact, that the number of leaves granted could be too high and the goal of reducing work-load of the Supreme court frustrated. [20]

3. Other aspects of procedure

The motion for leave to appeal must be filed directly to the Supreme Court (within 30 days after the service of the appellate court's judgment) and must briefly, but concretely, state the reasons, which could justify the granting of the leave to revision (Par. 367.b, CPA). If the appellant invokes that the judgment of the appellate court departs from the case law of the Supreme Court, it must concretely identify the file numbers of the Supreme Court judgments, which the attacked judgment allegedly departs from. In the similar manner the appellant is expected to prove that the decision in his case departs from the case law, which has been uniformly established on the level of appellate courts, concerning questions of law, not yet resolved by the Supreme Court.

[18] See: Ibidem.

[19] Wedam Lukić, op. cit., p. 10.

[20] The German experience shows that in case if appellate courts decide on granting leave to access to the Supreme court, the effect of lessening the work-load is not necessarily achieved. See: Buettner H., Bericht und erste Erfahrungen mit der neuen Revision in Zivilsachen, BRAK-Mitt., 2003, No. 5, p. 202.

The Supreme Court decides upon the petition in a panel of three judges (Art. 367.c, CPA). If the Supreme Court rejects to grant the leave to file a revision, it does not need to give reasons for such decision, it is sufficient to briefly state that the case does not fulfil the admissibility criteria as defined by the CPA.[21] The decision of the Supreme Court not to grant the leave to file a revision cannot be appealed against. If, on the other hand, the Supreme Court grants the leave to file a revision (which may be restricted just to certain issues raised by the appellant), the party then has 15 further days, in which he or she must file a revision with detailed reasons (Art. 367, CPA). The revision is filed with the court of first instance, which shall, if the revision is admissible and complete, send both the revision and the previous petition for leave to file it to the opponent, who may submit the replication in 15 days. The file is then sent to the Supreme Court. The Supreme Court decides about the revision in session in camera, in a panel of five judges (Art. 38, CPA). It examines the judgment only in respect of those parts which are subject to attack and only within the limits of reasons stated in the revision (Art. 371, CPA). Unless the party himself is a lawyer, who has passed the state legal exam, both the petition for the leave to file a revision, as well as then the revision must be filed by an attorney-at-law (Art. 86/3, CPA). If this condition is not fulfilled, the application is rejected as inadmissible without first returning the matter to the applicant for rectification.

III. THE DIMINISHED ROLE OF THE STATE PROSECUTOR'S REQUEST FOR PROTECTION OF LEGALITY

This extraordinary legal remedy (zahteva za varstvo zakonitosti), which is decided about by the Supreme Court, may be filed by the supreme state prosecutor against a final judgment on the grounds of an alleged violation of substantive or procedural law (Art. 385, CPA). This role of the state prosecutor in civil procedure has been considerably diminished since the 2008 reform, which reshaped the remedy of revision (see supra), and its role is closely connected with the above-described system of revision.[22] As the revision is excluded already ex lege in certain types of proceedings and claims (such as judgments is small claims proceedings, decisions in bankruptcy proceedings, certain non-contentious matters, and in proceedings concerned with enforcement of judgments and provisional and protective measures), in such types of cases it is beneficial that there exists another tool that enables the Supreme Court to take a stand on important legal questions and to safeguard the uniformity of case law. Therefore, this extraordinary legal remedy in hands of a state prosecutor was retained, but restricted to cases, where the revision is excluded already by statute. The criteria for

[21] The omission of obligation to give grounds for refusing to grant a leave is necessary for achieving the goal of lessening the burden of case-load on the Supreme court and enabling the court to concentrate its capacities fully to cases, in which the leave is granted. Besides, the omission of grounds also explicitely shows that the decision of the Supreme court not to grant a leave to appeal in particular case should not be considered of any significance as to the merits of the case and it should not leave any impression that the denial of leave to appeal means that the Supreme court considers the attacked judgment to be correct. See also: The Explanatory memorandum of the Ministry of Justice to the draft amendment of the Civil procedure Act, op. cit., p. 157.

[22] See e.g. Ude, Reforma…, op. cit., p. 1085.

filling of the request for the protection of legality are the same as for the granting of leave for filling of a revision (see supra).[23]

Parties, who know that a revision is not admissible in their case, often approach the state prosecutor with a plea to file the request for the protection of legality. But they have no right to appeal against the `notification´ of the state prosecutor informing them that this extraordinary appeal will not be filed. The decision on whether this extraordinary appeal shall be filed remains totally in the hands of the state prosecutor.[24] However, if the request for the protection of legality is filed, it can have a substantial effect on the parties' position (if the Supreme Court finds that the request is well-founded and that the judgment, which it is directed against, is based on an erroneous application of substantive law or that a grave procedural error occurred, the Supreme Court can alter the judgment or set it aside and order a re-trial. It is not, unlike in certain other legal systems that provide for a similar role of the state prosecutor or an attorney general, restricted to rendering a declaratory decision which does not affect the outcome of the particular case but merely serves as a guidance for future cases. It is highly questionable whether the Slovenian system is in line with the guarantees, contained in the Art. 6 of the ECHR. The critical point does not concern the right of both parties to be heard - they both are served with the state prosecutor's request for the protection of legality and may respond to it. It is the right of access to court that might be infringed by the rules that the outcome of the proceedings before the Supreme Court may affect the determination of the parties' civil rights and obligations, but the decision, whether the access to the Supreme Court is possible, depends neither on the parties nor on the court, but on the decision of the state body which is not a part of judiciary (the State Prosecutor).

IV. HUMAN RIGHTS DIMENSION OF THE ARGUMENT OF PRECEDENT

As explained above, the reform of the system of the access to the Supreme court implicitely recognizes the case law as an important source of law. This trend has however started even earlier, on the basis of doctrine established by the Slovenian Constitutional court. Slovenia belongs to the Continental legal circle, in which case law has traditionally not been recognized as a (formal) legal source. According to Article 125 of the Constitution of the Republic of Slovenia, in making decisions courts are bound only by the Constitution and laws, and case law is not a binding legal source. The same follows also from Article 11 of the Courts Act[25], which explicitly provides that a court is not bound by legal positions of another court. However, through the constitutional requirement of equality before the law, case law is gaining a similar force as pertains to formal legal sources.[26] Case law plays a co-creative role at least.[27] Courts

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[23] It is similar to, for example, roles of state procurator or similar body and extra-ordinary appeals which they can file in Italy (Il ricorso nell' interesse della legge) or in the Netherlands (Cassatie in het belang der wet). See e.g.. Liebman E.T., Manuale di diritto processuale civile, Milano, 1992, pp. 125-134, Hugentholtz, Heemskerk, Hoofdlijnen van nederlands burgerlijk procesrecht, Utrecht, 1996, pp. 38-41 and 234.

[24] See e.g. Ude, Civilno…, op. cit., p. 343.

[25] Official Gazette RS, No. 19/94.

[26] Pavčnik M., "Pravni in ustavni temelji prava" [Legal and Constitutional Foundations of Law], in et al, Ustavno sodstvo [Constitutional Justice], Pavčnik M. (Ed.), Ljubljana, 2000, pp. 416-422.

are being imposed the obligation to consider the argument of precedent, as one of interpretative arguments, when they interpret laws or decide concrete cases and reason judicial decisions. [28] The Slovenian Constitutional Court has followed these findings of the theory, and in some sense even upgraded such., Through the case law of the Constitutional Court the argument of precedent has won a direct constitutional significance in Slovenia to the extent that the violation of an arbitrary departure from a settled case law can be remedied through a constitutional complaint.[29] The Constitution does not prohibit any departure from case law, but only such that is an arbitrary departure.[30] In order that the existence of a violation of the mentioned constitutional right is found, the complainant must demonstrate the following two elements: (1) that the court's decision in their case departs from a settled case law; and (2) that such departure is arbitrary, which is in the case if the court did not provide sufficient reasons (in the procedural sense) explicitly why the case law must be changed.[31]

There is however no absolute binding character of case law and it is erroneous if the court in civil proceedings pronounces a certain issue to have been already resolved in the case law and that it may not decide differently at all.[32] The importance of legal precedent does not resolve the judge from his or her duty always critically to reconsider the settled case law and to strive for a correct interpretation and application of law. Thus, settled case law has a constitutional significance, however, it only concerns one of the arguments to be used in the interpretation of a certain legal norm. Constitutional Court held that the court must not arbitrarily depart from an established case law, which can nevertheless be done if it provides appropriate legal reasons for such departure." [33]

Given the finding that also a court of appeals may depart from the case law of the Supreme Court (unlike in the system of stare decisis in its pure form) the question is raised as to the existence of further appeals by which the party can challenge before the Supreme Court a decision of the court of appeals that departs from the case law of the Supreme Court. It is necessary to provide a systemic solution that in the event that a court of appeals departs from the case law of the Supreme Court, the last word concerning such an issue is reserved again for the Supreme Court. The appropriate solution is the introduction of the system of leave to file a revision, as it has been implemented with the 2008 reform of CPA, according to which, a departure from a settled case-law is one of major admissibility criteria for the revision. By such a system,

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[27] Pavčnik M., "Argument sodnega (pravnega) precedensa" [The Argument of Judicial (Legal) Precedent], Podjetje in delo, 2004, No. 6-7, pp. 1032-1033.

[28] Ibidem.

[29] See also Novak M., "The promising gift of precedents: Changes in culture and techniques of judicial decision-making in Slovenia", in: Systems of Justice in Transition, Priban, Roberts, Young (Ed.), 2003, p. 94-108. In the Slovenian law, the constitutional complaint is a special legal remedy that enables the Constitutional Court to review whether human rights or fundamental freedoms have been violated by the court's decision in a concrete case (paragraph 1 of Article 160 of the Constitution).

[30] Decision No. Up 297/96 dated 15 June 2000, Decision No. Up 452/02 dated 9.9.2004.

[31] Decision No. Up 188/02 dated 11 December 2003.

[32] Such standpoint implicitely follows from e.g. Celje Court of Appeals Judgment No. Cp 1509/99 dated 12 July 2001.

[33] Decision No. Up 404/01 dated 19 February 2004.

the circle is logically concluded: the court of appeals may decide otherwise than it follows from the case law of the Supreme Court, however, the party then has the possibility to achieve that the "last word" concerning the disputed issue is reserved for the Supreme Court – which can insist on its previous case law, or can also agree with the arguments of the court of appeals requiring that the case law is to be changed.

V. CONCLUSION

With the latest reform of Slovenian civil procedure, the courts of appeal are becoming the highest instance for most civil litigations, whereas the role of the Supreme Court is clearly becoming that of creating precedents.[34] Besides, the introduction of the described system proves that the legislator recognizes case law as an important source of law. This applies both to the view of the development of law through case law (which is evident as regards the reason for revision due to the "expected resolution of an important legal question") as well as to the view of ensuring the uniformity of case law (which follows from the reason for revision due to the "non-uniformity of case law" and "departure from case law").. The regulation, according to which the court may autonomously, in accordance with the above-mentioned criteria, decide whether it will grant leave to appeal, can strongly contribute to making case law more uniform and firm.[35] In this way, the right to equality before the law is strengthened. The reform therefore does not mean that the level of judicial protection is diminished.

[34] Testen F., `V prokrustovi postelji´ [In the Procrustean Bed], Pravna praksa, 2007, No.30, p. 6.

[35] See Pavčnik M., Argument…, op. cit., pp. 1032-1036.