

The effects of the payment of a debt based on a subsequently quashed effective court decision

Abstract

When an effective court decision, based upon which the defendant had already paid to the claimant, is subsequently quashed by the Supreme Court, it is necessary to determine whether, according to substantive law, the claimant is entitled to the received payment or not. In this regard, two different concepts of how these situations should be resolved have developed in the case law of Czech courts. Neither of them is, however, fully acceptable due to the inherent limitations of existing procedural law.

The first concept is based on a clear distinction between substantive and procedural law and respects the fact that the legal effects of an effective court decision do not have a direct impact on substantive legal relations. According to this concept, the original defendant must, after the annulment of the effective court decision in compliance with which he had already paid to the claimant, initiate new proceedings. In these new proceedings, in which the original defendant (now as claimant) must raise a claim for the restitution of unjust enrichment, the fact whether or not the former claimant is entitled to retain the obtained payment will be determined. After the defendant complied with the effective decision that was later quashed by the Supreme Court, the proceedings in which this annulled decision had been issued lose their purpose – they must necessarily end with the dismissal of the original claimant's action, either because the claimant never had the asserted substantive right to payment, or because previously existing substantive claim had ceased to exist following payment by the defendant (i.e., by the fulfilment of the defendant's debt). Therefore, in this situation, the claimant should withdraw the action and stop the original proceedings.

The aim of the second alternative concept is to prevent the original defendant from the necessity to start new proceedings after the annulment of the effective court decision, in compliance with which he had paid to the original claimant, in which he must demand restitution of this payment as unjust enrichment. By means of this, the alternative concept aims at improving the standing of the original defendant in the process. Legislative efforts aimed at preventing the claimant from withdrawing the original claim after receipt of a payment from the defendant that

had been ordered by a subsequently quashed effective court decision are also based on this second concept – but they do so to the detriment of basic principles governing civil procedure.

However, partial modifications of the existing legal framework cannot eliminate the cause of these problems as they are generated by the existing system of appeals in Czech civil procedure, in which the appeal on the points of law to the Supreme Court (*dovolání* in Czech) is conceived as an extraordinary remedy directed against effective court decisions. In these circumstances, before the effective decision is quashed based on the extraordinary appeal lodged by the defendant, it is often the case that the defendant complies with this effective decision and makes the ordered payment (or that this effective decision is enforced in enforcement proceedings initiated by the claimant). The only complex solution to the problem connected to payments made based upon subsequently quashed effective court decisions is therefore to transform the appeal on the points of law to the Supreme Court into a remedy directed against ineffective court decisions based on the example of neighbouring European countries (Germany and Austria). If this model would be applied, then the legal matter (dispute) in question would only end with binding effect following a final decision of the Supreme Court. At the same time, this change would reestablish the significance of effective court decisions that they do not and cannot have under the current system of appeals.

Key words: annulment of an effective court decision, unjust enrichment, extraordinary appeal on the points of law in civil procedure