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**LEAVE TO FILE A SECOND APPEAL AS A MECHANISM
FOR UNIFYING JUDICIAL PRACTICE: THE NORTH
MACEDONIAN PERSPECTIVE**

ABSTRACT

The uniform application of laws and the consistency in judicial decisions are fundamental preconditions for ensuring legal certainty, regardless of the type of the legal system. Additionally, the equal application of laws is regarded as an integral aspect of the right to a fair trial and thus, of the principle of the rule of law. Uniform judicial practice is a well-established principle, guaranteed both nationally and internationally. However, it is not uncommon for the courts to render conflicting judgments. In that manner, not only is the foreseeability and fairness of the judicial decisions undermined, but the overall trust in the judicial system may be infringed. Therefore, different countries have developed various mechanisms for overcoming this challenge. Generally, a distinction is made between formal, semi-formal and informal mechanisms in ensuring consistency. However, what is common is that the highest courts play a vital role in ensuring unity of judicial practice. In North Macedonia, one of the key mechanisms for achieving this goal is the possibility of granting leave to file a second appeal before the Supreme Court. This extraordinary legal remedy can be filled only if certain conditions are met. In this way, the Supreme Court exercises its constitutionally stipulated function of unifying judicial practice. However, the questions that pertain are: What are the arguments for the legal validity of the conditions of this remedy? Do the Macedonian courts apply this legal remedy and how effective is it? What is the judicial approach taken in practice? An attempt will be made to find answers to the questions raised by establishing theoretical foundations and reviewing relevant national judicial practice.

Keywords: unified court practice, leave to file a second appeal, Supreme Court.

1. INTRODUCTION

Uniform case law is the basis for establishing legal certainty, predictability and consistency in the decision-making process.¹ These concepts are essential elements of the principle of the rule of law,² whose importance was recognized as early as the time of ancient Greece, when it was emphasized that laws should ensure stability, justice, and consistency in governance, since they (should) be applied equally to everyone, including those who govern.³ However, this particular function of the laws could not be achieved without the courts, which, by rendering uniform decisions apply this fundamental principle in practice. Therefore, the highest courts in the countries are of particular importance, as their primary role is to ensure the uniform application of laws by resolving contradictions that may arise in different cases.⁴ Hence, it can be concluded that the judicial function is immanent, not only in providing legal protection of civil subjective rights, but also in establishing legal certainty in the legal orders of the states.

Due to the divergence of legal systems and traditions, specific institutional and legal frameworks, cultural and social differences, as well as numerous historical and other factors, the presence of different mechanisms for the unification of judicial practice can be noted. Generally, a distinction is made between formal, semi-formal and informal mechanisms in terms of the role of the courts in ensuring consistent judicial practice.⁵ However, the Supreme Court emerges as a central axis in overcoming the inconsistencies and establishing uniform application of laws in almost every judicial system. In the Republic of North Macedonia, the Supreme Court has the authority to establish principled positions and principled legal opinions. Additionally, one of the key instruments for unifying judicial practice in civil proceedings is the exceptional second appeal (*“vonredna revizija”*). This extraordinary legal remedy is the key point of this paper. Its purpose is the unification of the judicial practice and the insurance of uniform

¹ Constitutional Court of the Republic of Macedonia, no. 255/2009, 7.07.2010; Consultative Council of European

Judges (CCJE), Opinion No. 20 (2017) on the role of courts with respect to the uniform application of the law, <https://rm.coe.int/opinion-no-20-2017-on-the-role-of-courts-with-respect-to-the-uniform-a/16807661e3>, p. 2, January 2025 (hereinafter: Opinion No. 20 (2017)); European Court of Human Rights (hereinafter: ECHR), *Brumărescu v. Romania*, no. 28342/95, 28.10.1999, § 61; ECHR, *Ryabykh v. Russia*, no. 52854/99, 24.07.2003, §§ 51–56; ECHR, *Roșca v. Moldova*, no. 6267/02, 22.03.2005, § 24.

² Opinion No. 20 (2017), p. 2.

³ Wexler, S.; Irvine, A., *Artistotle on the rule of law*, Polis The Journal for Ancient Greek and Roman Political Thought, 2006, p. 20.

⁴ Opinion No. 20 (2017), p. 4.

⁵ See: Opinion No. 20 (2017), p. 3.

application of the law concerning certain legal issues. By deciding on a submitted exceptional second appeal, not only does the Supreme Court achieve legal and political goals, it also fulfills its constitutionally stipulated function of ensuring a uniform application of the laws in the country.⁶ The leave to file a second appeal can be submitted in exceptional cases in conditions provided for by law.

Through an analysis of the legal provisions and the practice of the Supreme Court, a conclusion will be reached on the possibilities for improving the regime of the extraordinary revision, including its application and its efficiency as a mechanism for unifying Macedonian judicial practice.

2. REASONS FOR INCONSISTENT CASE LAW IN THE REPUBLIC OF NORTH MACEDONIA AND THE POSITIONS OF THE EUROPEAN COURT OF HUMAN RIGHTS

Macedonian legislation does not contain an explicit provision on the unity of the judicial system,⁷ however, the unity as a characteristic of civil courts is perceived since they function based on the same principles and procedural rules. Thus, their overall organization is unified by the coordinating role of the Supreme Court, which.⁸ In theory, opinions arise that former socialist states are still influenced by the authoritarian, strictly textualist approach of the courts and the (overly) consistent application of the principle "*iura novit curia*" - especially due to the position of the Supreme Court and the significance of the standings it takes as the highest court in the country.⁹ Combined with the free judicial evaluation and the peculiar "aversion" of the courts of the continental system towards relying on

⁶ Art. 8. of the Constitution of the Republic of North Macedonia, Official Gazette, No. 2/1991, 1/1992, 1/1992, 31/1998, 91/2001, 91/2001, 84/2003, 84/2003, 107/2005, 107/2005, 3/2009, 3/2009 13/2009, 49/2011, 49/2011, 6/2019, 6/2019.

⁷ This was not the case in the Socialist Federal Republic of Yugoslavia (SFRY), as the Law on Courts explicitly stipulated that the judicial function in the SFRY was performed within a single court system.

⁸ See also in SFRY: Георгиевски, С., *Судството во новиот Устав на Југославија*, Годишник на Правниот факултет во Скопје, Скопје 1964, p. 216.

⁹ Kühn, Z, *The authoritarian legal culture at work: the passivity of parties and the interpretational statements of Supreme Courts*, Croatian Yearbook of European Law & Policy, 2006, p. 9.

previously issued court decisions, it often happens that cases with the same or similar factual and legal basis result in different outcomes.¹⁰

According to the principle of free judicial evaluation, each court carefully decides which facts will be taken as proven.¹¹ In this way, the submitted evidence (*praemisa minor*) is subsumed under the appropriate legal norm (*praemisa maior*) and the factual order is brought into line with the legal order. *A fortiori*, courts are autonomous and independent bodies that decide impartially based on their free evaluation.¹² They cannot be called "*to criminal liability for the opinion expressed and decision-making in the adoption of a judicial decision*".¹³ In order to protect the independence of the judges, unless there is obvious bias, neither does the ECtHR have the function of comparing different decisions of domestic courts, even when it comes to similar proceedings.¹⁴ However, the inconsistent case law in the Republic of North Macedonia often occurs as a "consequence" precisely due to the different interpretation of legal provisions or insufficient explanations by the courts.

It is important to point out that even at international level, the question arises as to whether deviations from established practice always constitute a violation of legal certainty. On the one hand, the ECtHR itself takes the position that the requirements of legal certainty and the protection of the legitimate expectations of the parties do not create a right to established practice.¹⁵ It must not be understood that the different interpretation of legal provisions will in any case lead to a violation of the legal certainty, and even more so, the right to a fair trial. This is due to the fact that different courts may reach different, yet rational and reasoned conclusions regarding the same legal issue arising from a different case with similar factual circumstances.¹⁶ The development of judicial practice is not, in itself, contrary to the principle of proper administration of justice, as the failure to adopt a dynamic and evolutionary approach by the courts may hinder reform

¹⁰ Čizmić, J., *Mogući načini ujednačavanja sudske prakse u parničnom postupku*, Zbornik radova Aktualnosti građanskog i trgovačkog zakonodavstva i pravne prakse, br. 20, Mostar 2023, Mostar 2022, p. 37.

¹¹ Art. 8. of the Law on Civil Procedure, Official Gazette, No. 79/2005, 110/2008, 83/2009, 116/2010, 124/2015 (hereinafter: MLCP).

¹² See: Arts. 1, 3, 6, 11, 19, 20 of the Law on Courts, Official Gazette, No. 58/2006, 62/2006, 35/2008, 61/2008, 118/2008, 16/2009, 150/2010, 39/2012 83/2018, 198/2018, 96/2019 (hereinafter: Law on Courts).

¹³ Art. 65. of the Law on Courts.

¹⁴ See: ECHR, *Adamsons v Latvia*, no. 3669/03, 24.06.2008.

¹⁵ ECHR, *Unédic v. France*, no. 20153/04, 18.12.2008, § 74: "However, the Court considers that the requirements of legal certainty and the protection of the legitimate expectations of litigants do not establish an acquired right to consistent case law."

¹⁶ ECHR, *Tudor Tudor v. Romania*, no. 21911/03, 24.06.2009; ECHR, *Tomić and others v. Montenegro*, no. 18650/09 and others, 17.04.2012; Opinion No. 20 (2017), p. 2.

progress and the advancement of the legal system.¹⁷ On the other hand, in the case of *Atanasovski v. the Republic of Macedonia*, the court emphasized that well-established case law may impose an obligation on the Supreme Court to provide a more substantial explanation of the reasons justifying the deviation, if such has been made in the specific case.¹⁸ Additionally, in the same case, according to the dissenting opinion of Judge Maruste, "*the interpretation and application of domestic law is primarily the prerogative of the domestic judiciary*", and domestic courts, especially the Supreme Court, should assess their overload and the need for shorter or longer explanations.¹⁹ However, it must be underlined that if courts continuously refuse to review established practice or to provide convincing arguments in case of deviation from it, their authority and integrity may be at risk.²⁰

This means that the uniform application of laws is necessary not only to ensure legal certainty and predictability in court decisions, but also to gain confidence in the entire judicial system.²¹ In addition to the different interpretations of legal provisions, reasons for inconsistent application of the Macedonian law include insufficient knowledge of relevant practice, the court overload with many cases which prevent them from dedicating sufficient time to research related to the specific case, lack of resources and a digital environment for monitoring practice, lack of communication with other courts of the same level in terms of exchanging information on case law, as well as lack of awareness and training.²² The level of use and citation of the case law of the ECtHR, for example, within the decisions of the basic and appellate courts, is still not at a satisfactory level. However, there is a positive trend of a gradual increase in the use of the case law of the ECHR by national courts, within the reasoning of the decisions, as a means of additional

¹⁷ Guide on Article 6 of the Convention – Right to a fair trial (civil limb), p. 40, para. 210, <https://rm.coe.int/1680700aaf>, 2 January 2025.

¹⁸ ECHR, *Atanasovski v. The Former Yugoslav Republic of Macedonia*, no. 36815/03, 14.01.2010, §38.

¹⁹ Dissenting opinion of the judge Rait Maruste in the case *Atanasovski v. The Former Yugoslav Republic of Macedonia*.

²⁰ Emmert, F., *The Independence of Judges a Concept Often Misunderstood in Central and Eastern Europe*, European Journal of Law Reform, Kluwer International Law, 2002, p. 408.

²¹ See: ECHR, *Vinčić and others v. Serbia*, no. 44698/06, 1.12.2009, § 56.

²² E-Justice and Fundamental Rights International GesbR, *Issues Affecting the Consistency of Judicial Decisions and Best Practices in Securing Consistency in Judicial Decision Making*, Council of Europe, 2023, pp. 11, 12, <https://rm.coe.int/issues-affecting-the-consistency-of-judicial-decisions-and-best-practi/1680afd8a5>, 2 January 2025; Центар за правни истражувања и анализи, *Унифицирање на судската пракса во Македонија: можности наспроти предизвици*, Скопје 2015, pp. 43, 44; Preshova, D.; Rakochevikj, M. and Misoski, B., *The Role of the Higher Courts in Securing the Uniform Application of the Law in North Macedonia*, Research Chapter No. 12/2022, Skopje 2022, pp. 17, 18.

argumentation.²³ This can be regarded as a positive trend, since the proper implementation of the ECtHR's reasoning would potentially reduce the inconsistencies regarding certain questions. This also extends to the reasonings of the national courts concerning cases with similar facts. Of course, one must also take into account the fact that the Republic of North Macedonia is a country with a continental legal system,²⁴ so we cannot (fully) rely on and take into account "precedents" when making decisions.²⁵ Although citing relevant practice can be a powerful tool for judges, especially when it comes to practice from the highest courts, there is a different approach to precedents in countries with continental and common law legal systems.²⁶ However, when an issue that affects legal and political objectives arises, it is logical to have a special mechanism through which the uniform application of legal provisions will be ensured. In the Macedonian legal system, in civil procedure, this is the exceptional second appeal, whose meaning, criteria and application in practice will be discussed in the following text.

3. DEFINITION AND MEANING OF THE LEAVE TO FILE A SECOND APPEAL

The Macedonian legislator uses the term 'second appeal' as a general notion and therefore, at first glance, it seems that there is only one type of second appeal in the Macedonian civil procedure. However, in exceptional situations, the courts have the possibility of granting a leave to file a second appeal before the Supreme Court. Therefore, a distinction is made between an ordinary second appeal (revision or in Macedonian: „revizija”)²⁷ and the leave to file a second appeal

²³ Ристик, Ј.; Треневска, З.; Деловски, В., *Анализа на степенот на користење и цитирање на судската пракса од страна на националните судови*, Центар за правни истражувања и анализи, Скопје 2020, p. 84.

²⁴ In our legal system, case law is a factual source of law, with certain exceptions regarding civil procedural law, such as: Art. 386. of the MLCP and Art. 400.(3) of the MLCP.

²⁵ However, it is important to underline that it is completely legitimate for citizens to want to rely on the outcomes of decisions already made, because in this way they can predict the outcome in their case, feel more secure and have greater trust in the judiciary.

²⁶ Council of Europe, Consultative Council of European Judges (CCJE), Opinion No. 11 (2008) of the Consultative Council of European Judges (CCJE) on the Quality of Judicial Decisions, 18 December 2008, <https://rm.coe.int/16807482bf>, 3 January 2025, para. 49; Opinion No. 20 (2017), p. 2.

²⁷ „It refers to a second appeal on points of law, similar to the remedy of Revision in, for example, German or

Austrian law, but it can also be compared to cassation in, for example, French or Italian law.” - Uzelac, A.; Bratković, M., *Croatia: Supreme Court between Individual Justice and System Management*, Supreme Courts Under Pressure, Chapter 5, Springer International Publishing, 2021.

(second appeal by permission; revision by permission; ‘exceptional’ second appeal or in Macedonian, „*vonredna revizija*”).²⁸ Regardless of the distinction, this extraordinary legal remedy is characterized as devolutive, non-suspensory, bilateral and limited.²⁹ The function of this remedy is achieved through two main aspects: on one hand, by ensuring fairness and legality of the decisions of the lower courts, the so-called private function of the revision comes into effect, which is aimed at pursuing the individual interests of the parties.³⁰ On the other hand, by ensuring the unity of judicial practice and stability in the legal system, the revision performs its so-called public function, which is aimed at ensuring unity and predictability in the legal order, through the uniform application of the law.³¹ Its function is for the Supreme Court to render decisions of precedent-setting significance.³² Thus, the limitedness as a characteristic further deepens the differentiation between the two.

As for the admissibility, the parties may submit an (ordinary) second appeal against the final second-instance judgment if the value criterion is fulfilled, *i.e.* if the value of the subject matter of the dispute in the contested part of the judgment exceeds 1.000.000 denars.³² Regardless of this criterion, a second appeal is always permitted in certain cases prescribed by MLCP.³³ *A contratio*, there are some cases in which the submission of a second appeal is never admissible.³⁴ Regarding the reasons for submission, it can be filed due to substantial violations of the

²⁸ For the purposes of this paper, the terms will be used interchangeably.

²⁹ Јаневски, А.; Зороска-Камиловска, Т., *Граѓанско процесно право, Книга Прва, парнично право, Второ изменето и дополнето издание*, Правен факултет „Јустинијан Први” во Скопје, Скопје, 2012, p. 482.

³⁰ Marković, M., *Građansko procesno pravo, knjiga prva, Parnični postupak, sveska druga, Parnične radnje*, Niš, 1973, p. 355; Triva, S.; Belajec, V.; Dika, M., *Novo parnično procesno pravo*, Zagreb 1977, p. 115; Poznić, B.,

Građansko procesno pravo, Beograd 1978, p. 307; Jolowicz, J. A., *On Civil Procedure*, Cambridge University Press 2000, p. 316-320; Зороска-Камиловска, Т., Ракочевиќ, М., *Дозволеност на ревизија во парнична постапка низ практиката на Врховниот суд на Република Северна Македонија*, Zbornik radova s V. Međunarodnog Savjetovanja „Aktualnosti građanskog procesnog prava – nacionalna i usporedna pravnoteorijska i praktična postignuća”, Split 2019, pp. 203-222, p. 204.

³¹ Зороска-Камиловска, Т.; Ракочевиќ, М., *op. cit.* note 30, p. 204.

See also: Galič, A., *Reshaping the Role of Supreme Courts in the Countries of the Former Yugoslavia*, Uzelac, A. & Van Rhee C.H. (eds.), *Nobody’s Perfect. Comparative Essays on Appeals and other Means of Recourse against Judicial Decisions in Civil Matters*, Cambridge/Antwerp/Portland: Intersentia, 2014, p. 292. ³² Bratković, M., *Što je važno pravno pitanje u reviziji?*, Zbornik Pravnog fakulteta u Zagrebu, Zagreb 2018, p. 857, <https://hrcak.srce.hr/216257>.

³² Art. 372(2) of the MLCP; 1.000.000,00 denars are equal to approximately 16.251,78 euros.

³³ Art. 372(3) of the MLPC.

³⁴ For example, small claims disputes.

procedural provisions and incorrect application of substantive law.³⁵ Therefore, a second appeal cannot be filed in cases of incorrectly or incompletely established factual situations (*errors facti*). There is an occurring view that the regular revision may also contribute to the unification of the court practice in vertical line.³⁶ This position is confirmed by Article 386 from the MLCP according to which: „*The court to which the case is returned for retrial is bound to that case by the legal understanding based on which the decision of the revision court is based, which overturns the contested second-instance judgment, i.e. which overturns the second-instance and first-instance judgments.*” In theory, this is known as a ‘procedural criteria’. This provision represents a specific exception from the rule that case law is only a factual source of the Macedonian civil procedural law, as the lower court is formally bound by the legal reasoning of the highest court.³⁷ Nonetheless, in practice, not all cases pass this filter before the Supreme Court.³⁸ Only the cases that fulfill the value-based, causal or procedural criteria are subject to review by the highest court. Therefore, many cases do not fall under the scope of the vertical unification of the judicial practice.

Consequently, in an attempt to cover a wider range of decisions that do not meet the formal value criterion, the legislator provided a compelling mechanism for unifying court practice by introducing the extraordinary revision. Namely, in 2005, the Macedonian legislator implemented a "dual regime" of the revision in the civil proceedings.³⁹ The main aim is for the extraordinary revision to achieve legal and political goals in a way that will create optimal conditions for the Supreme Court to fulfill its constitutional duty for the uniform application of laws and unification of judicial practice.⁴⁰ Hence, the revision is regarded as a formal mechanism for ensuring uniform case law.⁴¹

The extraordinary second appeal may be filed against a second-instance judgment that does not fulfill the value criteria if the second-instance court:

- permits its filing in the ruling part of the judgment it rendered
- specifies the scope of the legal issue that would be raised before the Supreme Court of the Republic of Macedonia

³⁵ Art. 375(1) and Art. 375(3) of the MLCP; there are further limitations regarding the violation of the procedural rules which will not be elaborated in detail in this paper.

³⁶ Nedelkova, L., *The Role of the Supreme Court in Promoting (Ensuring) Effective Justice and Unification of Judicial Practice*, China, 2-8 May, 2016, p. 5.

³⁷ Јаневски, А.; Зороска-Камиловска, Т., *op. cit.* note 29, p. 56.

³⁸ Nedelkova, *op. cit.* note 36, p. 5.

³⁹ Зороска-Камиловска, Т.; Ракочевик, М., *op. cit.* note 30, p. 216.

⁴⁰ *Loc. cit.*

⁴¹ Opinion No. 20 (2017), p. 3.

- assesses that the decision in the dispute depends on the resolution of a material or procedural issue important for ensuring the uniform application of the law and the unification of case law
- explicitly states (in the explanation of the judgment) the legal issue for which the revision is permitted
- states the decisions that indicate the non-uniform application of the law
- explains the reasons why it is considered important for ensuring the uniform application of the law and the unification of case law.⁴²

These criteria are met with criticism both in theory and in practice. For instance, regarding the material or procedural issue that is important for ensuring the uniform application of the law and the unification of case law, a question is raised as to which issue is considered important to the extent that a leave to file a second appeal would be allowed. Such an issue represents a legal standard whose interpretation is influenced by the Supreme Court's practice.⁴³ Considering that the MLCP only vaguely defines such a possibility, without remotely specifying the potential situations, it can be concluded that this provision may justifiably lead to confusion in practice, making it inoperable. For example, a compelling, yet pragmatic approach is taken by the Croatian Law on Civil Procedure (Croatian LCP), which exemplifies the possible scenarios in which an exceptional second appeal may be filed.⁴⁴ Article 385a from the Croatian LCP provides a practical framework for applying the legal provision in practice – a dimension lacking in our legislation. Additionally, the Croatian LCP extends the possibility of filing a revision even when there is no case law at all regarding a specific legal issue or if the Supreme court has taken a stance regarding a specific question, but the stance should be reconsidered due to legal changes, international treaties, and decisions from the Constitutional Court, the European Court of Human Rights or the European Court of Justice.⁴⁵ It is interesting to draw a parallel with this specific legal solution, because although both countries had the same legislative foundation after the dissolution of Yugoslavia, Croatia has taken a much more effective approach regarding the leave to file a second appeal and is continuously working on its improvement as a mechanism for unifying the judicial practice.⁴⁶

⁴² Art. 372(4) of the MLCP.

⁴³ Bratković, M., *op. cit.* note 32, p. 859.

⁴⁴ Art. 385.a. of the Croatian Law on Civil Procedure, Official Gazette, No. 4/77, 36/77, 6/80, 36/80, 43/82, 69/82, 58/84, 74/87, 57/89, 20/90, 27/90, 35/91, i NN 53/91, 91/92, 58/93, 112/99, 88/01, 117/03, 88/05, 02/07, 84/08, 96/08, 123/08, 57/11, 148/11, 25/13, 89/14, 70/19, 80/22, 114/22, 155/23 (hereinafter: Croatian LCP).

⁴⁵ Art. 385.a of the Croatian LCP.

⁴⁶ It is important to highlight that the Croatian LCP contains a provision for another valuable mechanism for unifying the judicial practice, *i.e.* Art. 502.i which refers to the

Nevertheless, the MLCP will also incorporate changes in the future, tailored by the Croatian model.

Namely, due to a lack of clarity, analysis of second-instance judgments demonstrated that the extraordinary revisions that were allowed only partially met the conditions stipulated in the MLCP.⁴⁷ The conditions were met only in the part that prescribes that the appellate court shall permit 'its filing in the ruling part of the judgment it rendered'.⁴⁸ Therefore, the Supreme Court concludes that the appellate courts have the responsibility to specifically, clearly, and unequivocally define the material or procedural question important for resolving the dispute and simultaneously ensure uniform application of the law and harmonization of the judicial practice in the reasoning of the judgment, thus, to list the numbers of the *res judicata* judgments from the same or other courts of the country, in which different decisions were made on the same legal issue.⁴⁹ Consequently to this legal opinion of the Supreme Court, a novelty of the MLCP in 2010 was introduced, shaping the current criteria, even though it is argued that the changes were more 'editorial than substantive'.⁵⁰ However, it is without a doubt that an *exempli causa* enumeration will facilitate the practical application of extraordinary revision.⁵¹ This approach is accepted in the proposal of the new MLCP, which is still pending in a parliamentary procedure. The draft law contains examples of questions that may arise as grounds for a revision – similarly to the grounds listed in the Croatian LCP.

Further, as stated, the enumeration of the final decisions that indicate non-uniformity is obligatory for the extraordinary revision to be filed. However, the question whether judges are continuously updated with the relevant practice has been ongoing for years, and a definitive answer cannot be found. However, different measures have been taken to overcome this obstacle. Initially, one of the (more progressive) measures was the introduction of the Automated Court Case Management Information System (ACCMIS) in 2010, which facilitates the recordkeeping and handling of court cases and tracks all the life cycles of the

'Model procedure for the resolution of legal issues important for the uniform application of law'. Due to the scope of the paper, the model procedure would not be elaborated in detail, however, it is undoubtedly another example of a progressive approach taken by the Croatian legislator.

⁴⁷ Legal Opinion, Civil Division of the Supreme Court of the Republic of North Macedonia, 8.07.2008, <https://bit.ly/4h0R9Zw> (hereinafter: Legal opinion, 2008).

⁴⁸ Art. 372(4) of the MLCP.

⁴⁹ Legal Opinion, 2008.

⁵⁰ Зороска-Камиловска, Т.; Ракочевиќ, М., *op. cit.* note 30, p. 218.

⁵¹ *Loc. cit.*

case,⁵² as well as the Judicial Portal of the Republic of North Macedonia⁵³ in 2017 to ensure transparency in the decision-making process. Additionally, the Law on the Management of the Movement of Cases in Courts⁵⁴ adopted in 2020 prescribes an obligation for mandatory publication of properly anonymized final court decisions on the court's website.⁵⁵ The main idea of these measures is to provide easy electronic access to the final decisions published on the official website which contains tools for advanced searching (e.g. by relevant court, article, legal basis, etc.). On the other hand, there are, in a broader sense, more traditional approaches for detecting non-uniform practice which can be seen through the prism of some provisions, such as the obligation of the president of the court to send a written proposal to be considered at a session of judges, department or Specialized court department if he notices unequal handling or deviation of the established case law;⁵⁶ the possibility of considering the matter of unification of judicial practice at a session of judges convened at least once a month;⁵⁷ the possibility for the Supreme Court of the Republic of Macedonia, the courts of appeal and the Judicial Council to request from the lower courts in its jurisdiction data regarding unification of judicial practice;⁵⁸ the obligations prescribed for the Department of Judicial Practice directed towards evaluation of the court practice⁵⁹ and its obligation to organize meetings with the appellate courts to review certain legal issues for the unification of certain legal issues;⁶⁰ the obligation of the president

⁵²Pre-accession Economic Program, Skopje, 2010, [https://www.sobranie.mk/WBStorage/Files/1_PEP_20102012_za_na_web\[1\].pdf](https://www.sobranie.mk/WBStorage/Files/1_PEP_20102012_za_na_web[1].pdf), p. 88; European Commission, Progress Report of the Republic of North Macedonia 2010, Expansion Strategy and Main Challenges 2010-2011, Brussels, 9 November, 2010, p. 10; Automated Court Case Management Information System, <https://edusoft.com.mk/court-case-management-software>.

⁵³ Judicial Portal of the Republic of North Macedonia, http://sud.mk/wps/portal/vsrm/sud!/ut/p/z1/hY4xC8IwFIR_S4eO5j2w1OgWQQvqpILxLdJKTAtpU9Jo8N8bcR KU3nZ338EBgQTqykejS9_YrjTRnym_5EWWId_ijh_2SxQrnPHjXGCxRjiNARRr_CPx3tMYsgHSxlafN6Krp_lwDOXVTTj1dzGuve-HRYophhCYtlYbxa62TfHXpLaDB_INQt9KnFD1DCJJXpELPs4!/dz/d5/L2dBISEvZ0FBIS9nQSEh/.

⁵⁴ Law on the Management of the Movement of Cases in Court, Official Gazette, 42/2020 from 16.02.2020 (hereinafter: Law on Management of the Movement of Cases in Court).

⁵⁵ Art. 9. of the Law on the Management of the Movement of Cases in Court.

⁵⁶ Art. 18. of the Court Rules, Official Gazette, No. 66/2013 from 09.05.2013 (hereinafter: Court Rules).

⁵⁷ Art. 19. of the Court Rules; thus, Art. 36 of the Court Rules of the Supreme Court, Official Gazette No. 14/2022 from 20.01.2022 (hereinafter: Court Rules of the Supreme Court), prescribes an obligation to organize sessions of the judicial departments of the Supreme Court to consider issues of unification of judicial practice.

⁵⁸ Art. 20. of the Court Rules; Art. 19. of the Law on Courts, Official Gazette, No. 58/2006 from 11.05.2006.

⁵⁹ Art. 74. of the Court Rules.

⁶⁰ Art. 71. of the Court Rules of the Supreme Court.

of the court at a session of judges and the president of the higher court, separately and together, to take measures to harmonize judicial practice,⁶¹ the possibility for the Supreme Court to organize consultations or consultative meetings with the judges of the courts, in order to harmonize judicial practice,⁶² etc. Through the manners prescribed in these provisions, the court can stay up to date with the overall case law and be able to detect potential deviations that may arise. However, the dominant opinion is that the Macedonian judges show resilience towards considering previous judgments,⁶³ therefore skepticism may arise as to whether thorough research is done before rendering a judgment concerning specific legal issues. While some technical improvements may be made in the digital tools, *i.e.* the ACCMIS and the official court website, the relevant provisions seem like a sufficient base for monitoring case law and listing the necessary final decisions in the judgment in which a leave to file a second appeal is allowed. The will and initiative of the judges themselves are crucial for remaining informed.

With sharper criticism directed at the broad scope of the material or procedural question which can be addressed for unifying the court practice and less intense observations focused on listing the decisions that indicate non-uniformity in practice, we cannot avoid questioning how the Macedonian courts act in practice, at least according to the recent trends.

4. REVIEW OF THE MACEDONIAN JUDICIAL APPROACH TOWARDS THE LEAVE TO FILE A SECOND APPEAL

Considering the challenges that may be imposed by the ambiguities in the conditions for filing revision, both ordinary and extraordinary, it appears quite compelling to conduct research of the approach taken by the courts in practice. Therefore, from the Reports of the work of the Supreme Court from 2021, 2022, 2023 and 2024,⁶⁴ it can be seen that the efficiency of the court is somewhat constant, however, it cannot be classified as highly satisfactory, though the Reports from 2023 and 2024 provide the epithet “efficient”.⁶⁵

⁶¹ Art. 87. of the Court Rules.

⁶² Art. 74. of the Court Rules of the Supreme Court.

⁶³ Preshova, D., Rakochevikj, M., Misoski, B., *op. cit.* note 22, p. 6.

⁶⁴ Report of the work of the Supreme Court from 2021, Supreme Court of the Republic of North Macedonia, Skopje 2022 (hereinafter Report 2021); Report of the work of the Supreme Court from 2022, Supreme Court of the Republic of North Macedonia, Skopje 2023 (hereinafter: Report 2022); Report of the work of the Supreme Court from 2023, Supreme Court of the Republic of North Macedonia, February 2024 (hereinafter: Report 2023); Report of the work of the Supreme Court from 2024, Supreme Court of the Republic of North Macedonia, February 2025 (hereinafter: Report 2024).

⁶⁵ Report 2023, p. 4; Report 2024, p. 6.

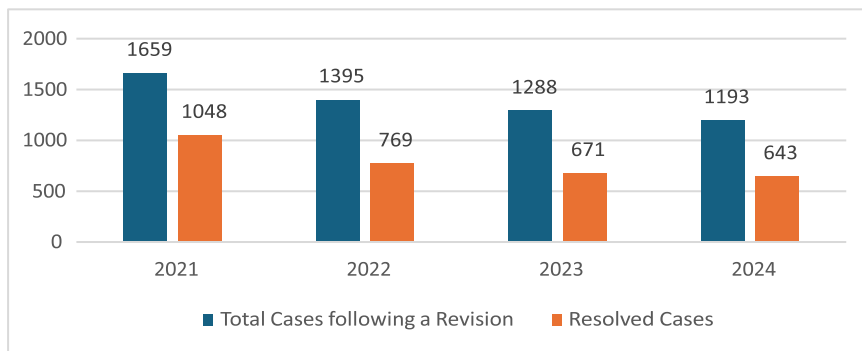


Table 1: Number of submitted second appeals according to the Reports of the work of the Supreme Court from 2021, 2022, 2023 and 2024⁶⁶

It must be noted that the provided information refers to the total number of cases for which a revision was filed since there are no official statistics for the number of submitted extraordinary revisions, nor the number of resolved cases following the extraordinary revisions. However, by conducting a case-by-case analysis of the decisions that are published by the courts, a general overview can be obtained about the reasons for which the appellate courts grant leave to file a second appeal and the Supreme Court's action on the submitted legal remedy. In 2021, it is interesting to observe that in some appeals, the appellants themselves requested permission to file extraordinary revision.⁶⁷ In some cases, the court did not allow

⁶⁶ Report 2021; Report 2022; Report 2023; Report 2024.

⁶⁷ Appellate Court of Gostivar, GŽ-122/21 from 28.07.2021; the appellant requested leave to file a second appeal on the following procedural question: whether the second-instance court can dismiss a lawsuit on the grounds of an untimely objection by the defendants for an unproven lack of passive legitimacy, in conditions when the first-instance court, until the decision on the case was made, had not previously issued any decision to regulate the lawsuit and in conditions when the defendants did not act in any way following the final decision of the Basic Court Tetovo on the said case; Appellate Court of Gostivar, GŽ-123/21 from 28.07.2021; the appellant requested leave to file a second appeal on the same ground, as this is a similar case to the above-mentioned; Appellate Court of Gostivar, GŽ.157/21 from 21.10.2021; in this case, the court concluded that the legal conditions for filling an extraordinary revision are not fulfilled, thus, the case concerned an award of interest and costs of the procedure, and since it concerns a secondary claim, a revision is in any case inadmissible; Appellate Court of Bitola, GŽ169/21 from 19.03.2021; The defendant, with the submitted appeal, requests permission for revision, i.e. asks whether oral amendments to written contracts can be accepted as in the specific dispute and attaches a judgment of the Supreme Court of the Republic of Macedonia Rev 1 No. 103/2019 of 2306.2020 in which the decision contained different positions regarding these issues, and thus states that there were numerous court decisions in which the same issues were resolved as current in view of the frequent oral amendments to written contracts, even though such decisions were not attached; Appellate Court of Gostivar, TSŽ-20/21 from 19.05.2021 (hereinafter TSŽ-20/21); the specific case concerned a debt from royalties whose value was 14,846.00 denars, i.e. it was a small claim dispute; Appellate Court of Gostivar, TSŽ-161/20

for extraordinary revision to be filed, under the reasoning that “*there are no attached decisions which indicate non-uniform court practice*”.⁶⁸ In another particular case, the court resonated that the decision does not depend on a resolution of a material or procedural question, thus, the attached decision from the Supreme Court is not conflicting to the judgment of the lower court, therefore an extraordinary revision is not allowed.⁶⁹ Lastly, the Appellate court did not allow extraordinary revision to be filed, because under Macedonian law revision is not allowed in small claim disputes, such as the cases at hand.⁷⁰ It can be seen that in these cases, the courts did not focus on the fact that the parties themselves requested permission to file an extraordinary revision, but rather on the question of whether the legal conditions for allowing it are met. On the contrary, there are some cases in which the Appellate Courts confirmed the request of the parties to file an extraordinary revision. For example, in some cases,⁷¹ the Appellate court allowed leave to file a second appeal by merely stating the right to file an extraordinary revision in the ruling part of the judgment and citing the relevant provision from the MLCP. The court did not list the decisions that demonstrated a non-uniformity in practice, nor did precisely state the scope of the question which needed to be addressed. This vague manner raises the question of whether the courts will allow an extraordinary revision to be filled each time they feel

from 27.01.2021 (hereinafter: TSŽ-161/20); same reasoning as the previous case, the specific case concerned a debt from royalties whose value was 5,090.00 denars, i.e. it was a small claim dispute; Appellate Court of Gostivar, TSŽ-168/20 from 20.01.2021 (hereinafter: TSŽ168/20); similarly, the specific case concerned a debt from royalties whose value was 40,653.00 denars, i.e. it was a small claim dispute.

⁶⁸ GŽ-122/21, p. 7; GŽ-123/21, p. 7.

⁶⁹ GŽ-169/21.

⁷⁰ TSŽ-20/21, p. 11; TSŽ-20/21, p. 13; TSŽ-168/20, p. 13.

⁷¹ Appellate Court in Skopje, GZ-394/21 from 24.03.2021; In this case, in 1989, a sales agreement for land was signed between the plaintiff's predecessor and the defendant, which was fully executed. The plaintiffs have possessed the land uninterrupted since then. The legal question arises as to whether this agreement can be considered valid. This question is further complicated by the Decision for transformation of the right to use construction land into ownership rights, based on the former ownership of the Ministry of Transport and Communications which granted the defendant and his brother ownership rights over the land, transforming their previously held right to use the land into ownership; Appellate Court in Skopje, GŽ-507/21 from 03.11.2021; In this case, there was a legal question regarding whether the plaintiffs have the right to file a lawsuit for the violation of their rights to health, a healthy environment, privacy, and the inviolability of their home. The case also concerns whether the plaintiffs can demand that the government update legal acts to fully align national legislation with European air quality directives and improve air quality; Appellate Court of Skopje, GŽ-819/21 from 03.03.2021; The question was whether it can be established that there is a concluded and fully implemented oral agreement in 1964 by which the right to use real estate was transferred if the agreement was concluded at a time when the subject of the agreement was considered *res extra commercio* and now, the Republic of North Macedonia is registered as the owner of the property register, thus the usufruct right of the defendants is no longer recorded, what change has occurred in accordance with the currently applicable laws?”

uncertain about a specific case. Similarly, in response to the GZ394/21,⁷² the Supreme Court dismissed the filed extraordinary revision by stating that: “*The second-instance court not only failed to explain the reasons for allowing the revision, but also failed to differentiate the specific legal issue that is important for the uniform application of the law and the unification of case law by pointing to specific cases.*”⁷³ In other two similar cases, the Supreme Court rejected the extraordinary revision based on two grounds: firstly, the Appellate Court did not allow leave to file a second appeal in the ruling part of the judgment and secondly, according to law, a revision is not allowed in any case in the present dispute.⁷⁴

In 2022, following the decisions GZ-507/21 and GZ-819/21 from 2021,⁷⁵ the Supreme Court denied the filed revision explaining that even though the second instance court elaborated the reasons why it allowed the revision and differentiated a specific legal issue, it failed to indicate specific cases which indicate non-uniform practice of the courts.⁷⁶ In another decision (GZ-562/22), the Appellate Court allowed leave to file a second appeal for the question “*whether the right to confiscation based on a final criminal verdict can apply only to the part of the property that belongs to the convicted person or the entire joint property of the spouses, in circumstances where it concerns real estate - a family house built during the duration of the marital union between the plaintiff and her husband - the convicted person, i.e. in the period from 1980-1982, which was legalized in 2013 and had a gift agreement concluded in 2018, based on which the plaintiff acquired the right to ownership of the property.*”⁷⁷ Additionally, the court referred to the Protocol of the European Convention on Human Rights and case law of the ECtHR.⁷⁸ In contrast to the previously unelaborated question which required unification and the absence of relevant cases that indicated non-uniformity, this approach appears more precise, even though the MLCP explicitly requires cases that demonstrate inconsistency in the Macedonian courts, not practice from the ECtHR. In another case, the Appellate Court allows an extraordinary revision to be filed on the following question: “*Can the court accept and base its decision on*

⁷² See footnote 70.

⁷³ Supreme Court of the Republic of North Macedonia, Rev2.no.331/2021 from 30.11.2021, p. 4.

⁷⁴ Supreme Court of the Republic of North Macedonia, Rev2.no.26/2021 from 06.04.2021, p. 2, 3; Supreme Court of the Republic of North Macedonia, Rev.2.no.39/2021 from 02.11.2021, pp. 2, 3.

⁷⁵ See footnote 70.

⁷⁶ Supreme Court of the Republic of North Macedonia, Rev.2.no.85/2022 from 14.06.2022, p. 4; Supreme Court of the Republic of North Macedonia, Rev.2.no.347/2021 from 24.02.2022, p. 3.

⁷⁷ Appellate Court in Skopje, GZ-562/22 from 21.09.2022, p. 10, 11 (hereinafter: GŽ-562/22).

⁷⁸ *Loc. cit.*

*an expert opinion prepared by an expert whose license had expired by the date of the expert opinion and whether the expert must possess a valid license on the date of the presentation of the expert opinion?”*⁷⁹ The court further supports the need for filing an extraordinary revision regarding this question by submitting two opposing conclusions adopted at working meetings of the appellate courts and the Supreme Court of the Republic of North Macedonia in 2018⁸⁰ and 2019.⁸¹ In this decision, the question is precisely drafted and while the conclusions of the working meetings may not be qualified as typical judicial decisions, their contradiction understandably requires unification. The question remains whether an extraordinary revision is the appropriate means for achieving that goal. In a different case, the defendant filed a revision stating that such revision is certainly permissible, since *“the defendant and the intervener will initiate a procedure for unification of case law before the Supreme Court of the Republic of North Macedonia on the grounds that the second-instance court, by issuing the contested judgment, acted contrary to its established case law.”*⁸² However, the court indicated that in the specific case, the conditions for the admissibility of an extraordinary revision are not met, nor is the mere initiation of a procedure for the unification of case law a basis for the admissibility of a revision.⁸³ There are also some cases in which the parties, again, requested permission to file extraordinary revisions. Generally, the courts did not allow those requests, due to different reasons: non-fulfillment of the legal conditions,⁸⁴ lack of need to file an extraordinary revision and absence of listed judgments (by the party requesting permission) which indicate inconsistency⁸⁵ or as it was decided in couple of cases, for example, despite not fulfilling the legal conditions, the court highlighted that *“revision is allowed by the second-instance court at its discretion, not at the request of the parties.”*⁸⁶ This is adequate interpretation of the provisions prescribing the extraordinary revision as a legal remedy.

⁷⁹ Appellate Court of Bitola, GZ-1183/21 from 27.12.2021, p. 7, 8 (hereinafter: GŽ-1183/21).

⁸⁰ According to the conclusion adopted at the working meeting of the appellate courts and the Supreme Court of the Republic of North Macedonia: “The court may accept as evidence and base its decision on an expert opinion prepared by an expert whose 5-year license at the time of the expert opinion has expired, but who is still registered in the register of experts.”

⁸¹ According to the conclusion adopted at the working meeting of the appellate courts and the Supreme Court of the Republic of North Macedonia: “At the time of preparation of the expert opinion, the expert must have a valid license, regardless of whether he or she is still on the list of experts.”

⁸² Supreme Court of the Republic of North Macedonia, PeB1.6p.185/2021 from 21.09.2022, p. 3.

⁸³ *Loc. cit.*

⁸⁴ Appellate Court of Skopje, GŽ-220/22 from 20.10.2022.

⁸⁵ Appellate Court of Skopje, GŽ-2615/21 from 17.03.2022.

⁸⁶ Appellate Court of Stip, GŽ-719/21 from 05.05.2022; Appellate Court of Stip, ROŽ-47/22 from 08.03.2022; Appellate Court of Stip, ROŽ-48/22 from 24.03.2022; Appellate

The trend of parties requesting permission for leave to file a second appeal continues in 2023 as well. As previously, the courts generally do not grant permission, based on different reasons: *inter alia*, the plaintiffs seek permission to file an extraordinary appeal based on a matter that constitutes a determination of facts, not a substantive or procedural question,⁸⁷ there is no disputed question that requires harmonization and no decisions have been submitted that indicate non-uniform application in practice,⁸⁸ non-fulfillment of the legal conditions⁸⁹ or the fact that the permission to file an extraordinary appeal is a question to be decided by court's discretion, not by request of the parties – even in a situation where the party has listed decisions which (from the parties point of view) indicate inconsistencies in practice.⁹⁰ In another case, the plaintiffs have filed an extraordinary revision on their initiative, i.e. “*they have granted themselves a non-existent right that the law does not provide for*”,⁹¹ especially since they have submitted the revision for a secondary claim for which it is certainly not permitted.⁹² The following judgment is a striking illustration of one of the most significant challenges of the extraordinary revision. Namely, in relation to the permission given to file a second appeal in the abovementioned decision GZ-1183/21,⁹³ the Supreme Court ruled that despite the conflicting opinions regarding the validity of the expert's license on the day of presenting the expert opinion, and although the decision from the Appellate Court meets the legal requirements, it is dismissed as unfounded as the dispute in question is a small claim dispute.⁹⁴ This is a clear demonstration that sometimes the form of the procedure can appear as an obstacle in the pursuit of justice. Once again, it confirms the standing that revision by permission should be allowed in all types of cases, regardless of their value. In one case, the Appellate Court did not list the decisions indicating non-uniformity in practice, by stating that there is no case law regarding the question, but the issue is highly important therefore it needs to be answered.⁹⁵ However, the

Court of Stip, ROŽ-55/22 from 08.03.2022; Appellate Court of Stip, ROŽ-56/22 from 24.03.2022; Appellate Court of Stip, ROŽ-112/22 from 12.05.2022.

⁸⁷ Appellate Court of Bitola, GŽ-65/23 from 22.11.2023; The decision in the civil procedure that the plaintiffs request to be made, as a decision that falls within the jurisdiction of the non-contentious procedure, in the opinion of this court, cannot be resolved through a decision of the Supreme Court that would change the law and legal provisions, but can only be resolved in the specific dispute.

⁸⁸ Appellate Court of Gostivar, GŽ-104/22 from 27.10.2022.

⁸⁹ Appellate Court of Skopje, GŽ-3094/22 from 27.09.2023.

⁹⁰ Appellate Court of Stip, ROŽ-128/23 from 20.03.2023; the court took into consideration the attached decisions, but found that they have a different factual and legal background and do not correspond to the specific case.

⁹¹ Appellate Court of Gostivar, GŽ-537/2022 from 26.01.2023.

⁹² *Loc. cit.*

⁹³ See footnote 79.

⁹⁴ Supreme Court of the Republic of North Macedonia, REV2-210/22 from 04.10.2023.

⁹⁵ Supreme Court of the Republic of North Macedonia, REV2-174/22 from 31.05.2023; the question was whether the death of the individual I.I. renders invalid the power of attorney

Supreme Court dismissed the revision by stating that the enumeration of the judgments is an obligatory condition for permitting extraordinary revision.⁹⁷ In one particularly interesting case, the Appellate Court allows leave to file a second appeal for the following question: “*When filing a lawsuit by an employee for transformation of the employment from a fixed-term to an indefinite-term contract, in accordance with Article 46 paragraph 4 of the Labor Law, is it mandatory to prove that financial resources have been secured for an indefinite period, given that the above-mentioned provision does not differentiate what resources the employee should provide?*”, thus indicating that the relevant practice is inconsistent.⁹⁶

This is an example of successfully granted permission for leave to file a second appeal, as in 2024 the Supreme Court confirmed the decision, ordered the judgments of the lower courts to be annulled and the case to be returned to the first instance court for retrial.⁹⁷ On the other hand, in connection to the decision GZ-562/22,⁹⁸ the Supreme Court emphasized that the Appellate Court explained the reasons why he allowed the revision, differentiated a specific legal issue that it considers important for the uniform application of the law and the unification of judicial practice, but failed to point out specific cases that indicate non-uniform court practice, due to which it is important to ensure uniform application of the law.⁹⁹ The Supreme Court took into account the fact that the decision of the Appellate Court cited decisions of the ECHR, but they did not amount to a different outcome. This is because, given the essence of the subject matter of the dispute in the cited decisions, they do not indicate any inconsistent case law on the legal issue on which the review by the second-instance court was allowed. In addition, one of the cases does not arise from the case law of the ECtHR at all.¹⁰⁰

It can be seen that the practice is even more ambiguous and confusing than the provision itself. From the analyzed judicial practice, three main conclusions can be drawn. Firstly, in the majority of the cases, the courts disregard the requirement to list the decisions that indicate non-uniform practice, even though the enumeration is crucial for detecting discrepancies in practice, thus infringing the legal obligation set by the law. Secondly, the courts demonstrate a lack of understanding of how to properly structure the legal question that causes nonuniformity, which leads to ambiguities and creates confusion for the Supreme

given in the administrative procedure at the conclusion, or at the notarization, of the disputed exchange agreement, issued to the attorney.

⁹⁶ Appellate Court of Gostivar, ROŽ-162/23 from 01.06.2023.

⁹⁷ Supreme Court of North Macedonia, REV3-83/23 from 25.04.2024.

⁹⁸ See footnote 83.

⁹⁹ Supreme Court of the Republic of North Macedonia, REV2-177/23 from 06.02.2025.

¹⁰⁰ *Loc. cit.*

court. Thirdly, as a consequence of the previous conclusions, the extraordinary revision is nearly ineffective as a mechanism for the unification of the Macedonian judicial practice - partly because of the inadequate application of the provisions and partly because of their insufficiency and the need for reform. Therefore, from the analyzed case law, it cannot be said that this extraordinary legal remedy fulfills the purpose for which it was introduced in the MLCP.

5. CONCLUSION

It is without doubt that the leave to file a second appeal is a formal mechanism for securing unified court practice in the Macedonian judicial system. However, the question is whether this mechanism is sufficient for the purpose for which it was primarily prescribed. What is concerning is the current state of the Macedonian judicial practice. Namely, almost 17 years after the legal opinion of the Supreme Court providing directions for properly implementing the extraordinary revision in practice, it seems that the situation hasn't changed much. The courts continue to vaguely frame the scope of the question addressed for achieving uniform application of the law, thus, they fail to provide cases that demonstrate the alleged non-uniformity. An interesting tendency demonstrates that, not rarely, the parties themselves require permission to file an extraordinary revision. On one hand, the provision itself does not explicitly provide who should present the decisions that indicate non-uniform practice. On the other hand, by interpreting the provision as a whole, it can be concluded that granting permission to file an extraordinary revision is a discretion of the court, therefore, the court should not abuse its powers and impose an obligation on the parties to submit the relevant examples of non-uniform practice, thus, it should not reject considering whether an extraordinary revision should be filed solely on the ground that the parties did not provide the relevant (non-uniform) practice. The main intention is for the court to be aware and prepared to adequately assess whether permission to file an extraordinary revision should be granted. According to the MLCP, the burden falls on the court, taking into consideration the gravity of the extraordinary revision and the impact it is supposed to have – the unification of the judicial practice and equal application of the law.

The analysis of the judicial practice conducted for the paper demonstrates that, until now, the extraordinary revision has not had a meaningful impact on the unification of the practice, much less is it considered an effective mechanism for overcoming the discrepancies in the uniform application of the law. The main conclusion that arises as a result of the research is that the current legislation requires reforms in its provisions regarding the extraordinary revision. This is due to some key-obstacles that are detected. Firstly, the condition regarding the type

of the question which may be subject to extraordinary revision is open to broad interpretation. Further, the obligation of the courts to list the decisions that indicate nonuniformity seems as the biggest challenge in the use of this extraordinary legal remedy. Thus, the current provisions deprive the parties of the possibility to require permission to file an extraordinary revision, which otherwise seems as a suitable possibility, since the court would nonetheless have the final decision whether permission should be granted or not. At the moment, the form of the provision, *i.e.* the procedure itself serves as a barrier in the pursuit of justice and unification of the judicial practice. These key-points are expected to be covered by the new MLCP – by extending the scope of questions for which an extraordinary revision may be filed, by providing exemplificatory situations which could amount to ‘a question that requires unification’, by allowing the parties to request filing an extraordinary revision themselves and by removing the obligation of listing the decisions which indicate non-uniform judicial practice regarding the specific question if such question hasn’t been previously addressed. In that manner, the main obstacles burdening the application of this legal remedy are expected to be overcome.

Nonetheless, it has to be noted that despite the improvements needed for this legal remedy to be put into practice, it is unacceptable for the courts to disregard the applicable rules. In many instances, the Supreme Court denied the submitted extraordinary revision due to a lack of listed decisions that indicated non-uniform practice. In this manner, the Appellate Courts deprive the parties of uniformity in judicial practice regarding certain questions. It seems that the conditions set in the MLCP are burdensome for the court, therefore, this extraordinary legal remedy is marginalized as a mechanism for ensuring uniformity. At present, it exists as a mere formality, often disregarded by the relevant actors. Until the adoption of the new MLCP, measures should be taken for the extraordinary revision to be made current, through sessions of the Supreme Court and the lower courts, as well as judicial trainings. The lack of application and relevance of this legal remedy at the moment raises concerns regarding its future implementation. Therefore, without doubt, the leave to file a second appeal is an extraordinary legal remedy that requires continuous attention and proactive efforts to fulfill its aim as a mechanism for unifying the Macedonian judicial practice.

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