Synyuta Oksana
(Синюта Оксана)
student of the Law Faculty
Lviv National University of Ivan Franko
Scientific supervisor: PhD, Associate Professor of
the Department of Foreign Languages for Humanities of LNU
Anetta Artsyshevska

THE SCOPE OF THE CASE HEARING IN THE COURT OF APPEAL AND THE POWERS OF THE COURT OF APPEAL

If the participants of the proceeding (parties, third parties) are not satisfied with the court decision, they may contest the decision in accordance with the appellate procedure at the appellate court. For this purpose they must file an appeal petition within ten days after the decision is issued.

The appellate court in civil cases is the civil division of appellate general courts within the territorial jurisdiction of which is the local court which passed the appealed judgment

The parties and other persons involved in the case, as well as those who are not involved in it, if the court solved the question related to their rights and responsibilities, have the right to appeal the decision of the court of first instance as a whole or in a part.

During the appeal hearing the court of appeal examines the legality and validity of the decision of the local court within the arguments of the appeal petition and the requirements stated in the court of the first instance.

The court of appeal examines the evidence, examined by the court of the first instance with the violation of the established order or in case of unlawful denial of their examination, and new evidence, not passed to the court of the first instance due to valid reasons.

The court of appeal is not bound by the arguments of the appeal petition if the incorrect application of the material law or the violation of the procedural law is stated during the appeal hearing, as those are mandatory reasons for the reversal of the decision.

As a result of the review of the case the court of appeal may:

1) decide on the dismissal an appeal petition and leave the decision unchanged;

2) cancel the decision of the trial court and make a new decision on the merits of the claim;

3) change the decision;

4) pass the decision about the reversal of the first instance´s decision and close the proceeding or leave the petition without consideration.

The court of appeal dismisses the appeal petition and leaves the decision unchanged, if admits that the trial court passed the decision in compliance with the rules of substantive and procedural law.

The reasons for the reversal of the court judgement and rendering a new decision or changing it are as follows:

1) incomplete clarification of the circumstances relevant to the case by the court of the first instance;

2) failure to prove the circumstances relevant to the case, which the court of the first instance considered to have been proven;

3) non-compliance of the findings of the court of the first instance with the circumstances of the case;

4) violation or incorrect application of substantive or procedural law as well as consideration and resolution of the case by the court illegitimate; participation in passing the decision of the court which was challenged on the basis of the circumstances that caused doubts on the judge's impartiality, and the petition about his disqualification was found reasonable by an appeal court; approval or signing the resolution not by the court who heard the case. Articles of the substantive law are considered to be violated or applied incorrectly if the law that was applied may not be applied to this relationship, or the appropriate law wasn't applied.

All in all, I would like to say that the procedure of appeal is quite well regulated by the Civil Procedural Code of Ukraine. It defines the right of every person to appeal, the grounds for such an application and the powers of the Court of Appeal. The procedure complies with the European standards of court system. Still I guess it is a drawback that the court of appeal examines only the evidence, examined by the court of the first instance with the violation of the established order or in case of unlawful denial of their examination, or new evidence, not passed to the court of the first instance due to valid reasons. It would be better if the court of appeal could examine all the evidence which is in case in order to have complete and total vision of the circumstances of the case.

Yulia Stashkiv

(Юлія Сташків)

a 2-year student of law faculty
Lviv National University of Ivan Franko
student of the Law Faculty
Scientific Supervisor: PhD, Associate Professor of the Department of Foreign Languages for Humanities of LNU
Anetta Artsyshevska

CRIMINAL ATTEMPT: THE CONCEPT AND TYPES

An attempt to commit a crime, apparently, is the central and the most difficult in terms of knowledge, the legal definition and enforcement type of crimes according to their degree of consummation.

According to article 15, paragraph 1 of Criminal Code of Ukraine criminal attempt shall mean a directly intended act (action or omission) made by a person and aimed directly at the commission of a criminal offence prescribed by the relevant article of the Special Part of this Code, where this criminal offence has not been consummated for the reasons beyond that person's control [1].

Attempt is the type of unconsummated crime, the crime that is not fully developed. The crime of attempt has two elements, intent and some conduct