

Cassation

An extraordinary means of appeal against a final judgment of the court of appeal. It consists in examining the legality of a final judgment of the court of appeal ending the court proceedings. A cassation appeal is heard only by the Supreme Court. A cassation appeal may be lodged by: a party – (the so-called ordinary cassation appeal) – only against a final judgment of the court of appeal closing the proceedings; if, however, the applicant did not appeal against the judgment of the court of first instance, and the appellate court upheld or changed the judgment in its favour, the Prosecutor General, the Chief Military Prosecutor or the Commissioner for Human Rights – (so-called extraordinary cassation) – against each final court decision ending the proceedings – is not entitled to cassation (does not apply to cassation based on the so-called absolute grounds for appeal under Article 439 of the Code of Criminal Procedure). If the issuance of a decision has resulted in a violation of children's rights, the Ombudsman for Children may file a cassation appeal against any final decision of the court concluding the proceedings. A cassation appeal should meet the general requirements of a pleading, and it should also indicate what the alleged infringement is. It may only concern: the existence of the so-called absolute ground for appeal (under Article 439 of the Code of Criminal Procedure), another gross violation of the law, if it could have had a significant impact on the content of the ruling. A cassation appeal may not be filed solely on the grounds of disproportionality of the penalty. In addition, cassation may be appealed in favour only if the defendant has been sentenced to imprisonment without conditional suspension of its execution, and against the defendant only if he has been acquitted or the proceedings have been discontinued due to the negligible social harmfulness of the act, the fact that the perpetrator is not subject to punishment under the law, or the perpetrator's insanity. This limitation does not apply if the cassation appeal is based on absolute grounds for appeal. A cassation appeal filed by a party must be drawn up and signed by a defence counsel or an attorney who is an advocate or legal advisor (attorney-at-law obligation).