

- Permissibility of revision of second-instance judgement, involving a final and binding decision on a motion for retrial

“Revision of the second-instance judgement, involving a final and binding decision on a motion for retrial, is not permitted.”

Rationale:

Retrial is an extraordinary remedy that may be filed by the parties, in respect of the final and binding judgement, on which the court shall make a decision. Therefore, the issue of permissibility of revision of the second-instance decision on the motion for retrial is governed by the provisions of Paragraphs 1 and 2 of Article 254 of the Civil Procedure Law (Official Gazette of the Republic of Srpska, Nos. 58/03 to 61/13). For the application of the above legal provisions, two conditions need to be cumulatively fulfilled: that it is a second-instance and final and binding decision on the end of the procedure, and that, in this trial, the revision of the final judgement is allowed.

As the motion for retrial is an extraordinary remedy, which challenges the final court decision (regardless of whether it has become final and binding in the first or the second instance of the trial), the procedure was finally completed, based on a decision made in proceedings whose repetition is claimed, so that the second-instance decision on the motion for retrial (refusal or rejection of the motion) is not a decision based on which the procedure finally ends. Therefore, revision of the second-instance judgement, involving a final and binding decision on a motion for retrial, is not permitted.