

# NEWSLETTER

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## Resolution of the Supreme Court increases the possibility of appeal of the National Appeals Chamber's judgment

1. Regulations concerning the procedure of appeal of the National Appeals Chamber's judgment seem clear. It's sufficient that the party unsatisfied of the result files a claim to the competent District Court. Such complaint, if accepted, is examined on the basis of the grounds of the Civil Procedure Code. The problem arises when the court decides not to accept the complaint. Previously, it often happened when the National Chamber of Appeal imprecisely formulated the content of the judgment, including only information whether the appeal was dismissed or accepted – even though the claim was accepted when one among many charges was considered. It led to bizarre situations when the last important charge was considered, the rest were dismissed and the judgment – although in practice unfavorable for the claimant, in theory was in his favor. However, information about the charges which were not considered, appeared only in the justification of the judgment. It led to differences in court proceedings relating to appeals against such judgments: some of the judges accepted complaints and others not, explaining that generally speaking the appeal was accepted.
2. Therefore, what does the resolution of the Supreme Court change? It grants permission to file an appeal of the National Appeals Chamber's judgment *concerning the charges dismissed in the justification of the judgment and unresolved in the maxim*. The Supreme Court states, invoking art. 192 (7) of the Act of Public Procurement Law and §34 subsection 1 point 4 of the Prime Minister's Regulation on the rules of the proceedings by examining the claims, that the National Appeals Chamber is obliged to consider in the judgment each and every charge and demand.
3. The Supreme Court highlighted also the fact, that the judgment in which only one of the charges of the appealing party was considered and the others were dismissed, is not in favor for the appealing party. This party has not reached the demanded legal effects, even though theoretically the claim was included. Moreover, the Supreme Court added that *defective practice of ruling about the charges and demands in justification of the judgment, instead of the maxima cannot close the right to appeal from the judgment of the first instance court, which is foreseen in art. 78 of the Constitution*. Possibility to file a complaint from the judgment of the National Appeal Chamber is in fact proceeding determining the dispute in the second instance.

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