

Abstract

The primary subject of this rigorous thesis, as its heading suggests, is the issue of civil liability, namely for the damage caused by the act or the use of a thing. The main aim of this rigorous thesis is to provide its readers with the comprehensive interpretation of the tort liabilities contained in the provisions § 2936 up to § 2938 of the New Civil Code in order for them to have a clear idea, on which cases and under what circumstances these tort liabilities shall apply. There are also examined the problematic parts of the above-mentioned legal provisions, respectively the pitfalls that may occur during their interpretation and application.

In my opinion the tort liabilities in question are not used in the practice frequently, which shows also the fact that until today new judicature has not been developed to this relatively new legislation. This is despite the fact that these tort liabilities provide considerable potential for the enforcement of the claims in practice. It is then analyzed in detail regarding each of the above-mentioned tort liabilities, whether it is subjective or objective type of liability. From my point of view all these cases are the objective type of liability, in spite of some diverse opinions of legal doctrine. This conclusion also supports an increased interest in the protection of the aggrieved persons, respectively in simplifying their procedural status regarding the enforcement of their claims. Nevertheless, it can be reasonably assumed that the final word in this regard will have the judicature of the higher court instances.

This rigorous thesis is systematically divided into the 10 basic chapters. First of them contains a brief introduction into the issue in question. The second chapter includes a general commentary to the law of torts, in particular regarding the history and current legislation of tort law. The next chapter deals with the basic terms and principles of the current Czech tort law. The fourth chapter then contains a brief and general introduction to the current legislation regarding the liability for the damage caused by a thing. Further, the fifth up to eighth chapter, forming the core of this thesis, are containing the detailed commentary regarding the 4 tort liabilities for the damage caused by a thing, according the prov. § 2936, § 2937 sec. 1 and 2, § 2938 of the New Civil Code. These chapters are then always divided into the three subchapters dedicated to the history of legislation in question, the current legislation as well as the judicature, which however, as already mentioned above, is not developed yet and thus it

has to be worked with the conclusions of the older judicature. The ninth chapter is then dedicated to the brief comparison of the Czech legislation with the relevant foreign legislation, in particular with the German and Quebec legislation. The conclusion of this thesis is contained in the tenth chapter, where are briefly summarized conclusions of this rigorous thesis and the evaluation of the legislation in question.

This rigorous thesis, respectively the conclusions contained herein are based almost exclusively on the opinions of the legal doctrine, because of the so far undeveloped judicature of the higher court instances regarding this new legislation. It is only natural that these opinions of the legal doctrine regarding the individual problematic issues then often differ. In each such a case this thesis tries to analyze in detail and explain, why a particular opinion of legal doctrine is correct, alternatively it states also the new approaches to the issue. However, the interpretation of the above-mentioned tort liabilities can be also partially based on the older judicature relating to the previous legislation. This will in particular concern the tort liability according the prov. § 2936 of the New Civil Code, whose predecessor is well-known prov. § 421a of the Old Civil Code. However, this will apply only in the limited extent, since this new legislation has limited range of cases, on which it shall apply. Given the all above-mentioned facts it can be reasonably assumed that conclusions and opinions contained in this thesis will shift or change in the future with the gradual development of the relevant practice of the courts.