

Abstract

The purpose of the diploma thesis „Duty of care, skill and diligence in Czech court case law“ is to analyze the approach of Czech courts case law to the selected issues related to the duty of care, skill and diligence and to evaluate it with regard to the interpretation of legal regulation, doctrinal interpretation, theoretical and historical knowledge. The thesis consists of two main chapters which deals with research of two actual questions selected to the purpose of the thesis.

The first chapter deals with the question whether the duty of care, skill and diligence can be considered as an objective or subjective standard, i.e. according to which standard should the actions of persons who are obliged to act with the duty of care should be measured. Based on the performed analysis, the author's own opinion on the issue is expressed and subsequently the approach of the Supreme Court of the Czech Republic in its individual decisions is evaluated. The concept of care as a subjective sharpening of the objective standard is critically evaluated.

The second chapter is devoted to the issue of the nature of the duty of care, specifically the question of whether it can be considered lawful or contractual with regard to changes in the law of liability after the recodification of civil law. Its solution should also answer the question whether a member of an elected body responds objectively or subjectively in case of a breach of the duty of care. When dealing with partial questions, the author follows up the implications of the nature of the relationship between the member of the elected body and the legal entity and the nature of the obligation. Furthermore, attention is paid to the relation type of representation - the nature of the duty and the approach of case law to this starting point is evaluated. The resulting reasoning is then based on examination of the obligation and the appropriate conclusions are subsequently reflected with the existing, but still limited, case law of the courts.