

## Damages for Breach of Contractual and Non-Contractual Duty in Civil Law – Abstract

The thesis at hand deals with liability for non-performance of a contract and liability in tort. The new Civil Code abandoned the general rule of Sec. 420 of Act No. 40/1964 Coll., which did not distinguish between contractual and non-contractual liability. The new Civil Code thus provides for two different liability regimes depending on whether the wrongdoer and the victim entered into a contract (or similar obligation) or not. While liability in tort is governed by Sec. 2909 and 2910 CC, contractual liability is stipulated in Sec. 2913 CC. The thesis strives to examine this important change in its complexity when emphasis is being put onto the theoretical, comparative and historical context.

Firstly, the thesis provides for the basic theoretical background of liability in civil law and looks at the foundations of its division into contract and tort. The author further dives into the topic from a comparative perspective. Given the inspirational sources of the Czech Civil Code, the thesis focuses mainly on German and Austrian approach. The thesis also gives a brief summary of the historical development in the Czech civil law.

The main part of the thesis focuses on the relevant provisions, their relationship and conditions for liability. Author analyses Sec. 2909 CC, which deals with the conduct *contra bonos mores*, Sec. 2910 CC setting forth the general tort rule and Sec. 2913 on contractual liability. The author points out that contractual liability is more favourable for the victim. Firstly, contract does not limit compensation of so-called pure economic loss. Secondly, the liability of principals for their agents in contractual relations is broader than in delict. Lastly, the contractual liability may be established irrespective of wrongdoer's fault.

In light of the foregoing, it is very important whether a specific case will be assessed under contractual or non-contractual provisions. Consequently, the author puts forward some possible solutions how to draw the line in between them.

The author further looks into relevant legal concepts that lie on the borderline between contract and tort. These include pre-contractual liability, possible contractual liability towards persons who are not party to a contract (the so-called contract with protective effect towards third parties), and a contractual obligation to protect the other party's property and life that does not pursue expectation but rather reliance interest.

Lastly, the thesis tackles the general prevention duty pursuant to Sec. 2900 and 2901 CC and tries to elaborate on its place and function in the new liability system.