

Non-pecuniary harm and its compensation in judicial practice

Abstract

This thesis deals with the traditional private law issue of non-pecuniary harm and its compensation in the area of private law. The author of the thesis focuses mainly on current issues related to non-pecuniary harm with emphasis on the development of court decisions not only in the Czech legal system. Attention is also paid to the historical genesis of both, the legislation and judicial decisions. First of all, the basic concepts are analyzed, inclusive of terminological inconsistencies clearly expressed in the comparison table. Subsequently, attention in great detail is paid to the individual legal provisions dealing with the issue of non-pecuniary harm and its compensation in the current Civil Code.

This thesis is divided into nine chapters. The first chapter explains the key term of non-pecuniary harm and other terms like compensation and judicial practice. The second chapter briefly introduces the protection of personality rights and means of reasonable satisfaction. The third chapter deals with the compensation for bodily harm in the Civil Code including a legally non-binding document called Methodology of the Supreme Court to compensate non-pecuniary harm to health. This non-binding document was created with the aim to help judges to determine the amount of compensation for pain and deteriorated social position, in order to unify the decision-making practice. This chapter also defines the term of other non-pecuniary damage based on the published court decision. The fourth chapter explains the term of mental suffering and its a compensation for harm caused by killing or by particularly severe bodily harm. The fifth chapter explains the term of compensation for non-pecuniary harm. Specially this section adjusts compensation for everyone who legitimately perceives the harm as a personal misfortune. The sixth chapter is devoted to non-pecuniary harm caused by thing damaged out of caprice or maliciousness and compensation as the sentimental value. The seventh chapter deals with the loss of enjoyment of holiday, being a type of non-pecuniary harm. In this context, the local law and the judicial practice are also compared with the German and the United Kingdom legislation. The eighth chapter explains the issues of reasonable satisfaction in cases where the fundamental right of a member of the association was violated. The last chapter is focused on matters of adequate satisfaction as a part of protection against unfair competition.

The thesis is also enriched with the author's views drawing attention to problems in legal practice.