Compensation for non-material damage in the event of health injury and death in adhesive proceedings

Abstract

The topic of this diploma thesis is compensation for non-material damage in event of health injury and death in adhesive proceedings. This is a complex topic in which the provisions and principles of criminal and civil law intertwine.

Adhesive proceedings are an institute of criminal procedural law that allows the injured party to recover damages, non-material damage and unjust enrichment during criminal proceedings without having to proceed in civil proceedings. Non-material damage is an institute of private law; when deciding on the amount of non-pecuniary damage, the court decides on the basis of private substantive legal provisions.

The first part of the theis is focused on the position of the injured party in criminal proceedings. The thesis first defines the position of the injured party, his rights, the possibilities of his representation. The main emphasis is placed on the conditions for claiming the injured party's claim, so that for procedural reasons the injured party is not referred to civil proceedings.

In the second part of the work, non-material damage is dealt with, first in case of personal injury, in the next part in case of death. In both of these separate chapters, the current legal anchoring of non-material damage under civil law and in labor relations is first described. Because judicial practice maintains continuity with the previous legislation, a chapter is also devoted to the previous legislation on non-material damage.

The diploma thesis is based on the current concept, where non-pecuniary damage in personal injury is composed of three claims: pain, social hardship and the category of other non-material damage. The current problem is then compensation for mental pain. If mental difficulties are of a permanent nature, they are compensated as social hardship, but if they are only temporary, their classification is not certain.

The last chapter is then devoted to non-material damage at the time of death. The main attention of the thesis is to determine the amount of compensation for non-material damage and possible criteria for its increase or reduction.

Key words: adhesive proceedings, injured party, non-material damage