

Abstract

Current issues of collateral proceedings

This thesis deals with one of the current issues of the so-called collateral proceedings, namely the compensation for non-material damage in the case of bodily harm and compensation for non-material damage in the case of killing or particularly serious bodily harm in these proceedings. This issue is very topical mainly due to a fundamental change in the legal regulation of the compensation for non-material damage in question brought by the Civil Code in 2014. This topic is also very specific as criminal, civil and medical law intertwine in it. The thesis contains chapters occupying on criminal law institutes of the injured party and collateral proceedings, which are topics closely related to the focus of this work and their explanation should be included in the thesis for the purpose of understanding of the selected topic. However, main part of the work focuses on the private law regulation of the compensation for non-material damage in the case of bodily harm and compensation for non-material damage in the case of killing or particularly serious bodily harm according to sec. 2958 and sec. 2959 of the Civil Code.

The thesis is divided into four parts. The first part deals with the injured party as it is the main subject of collateral proceedings. This part defines the term of the injured party and describes its position in the criminal proceedings.

The second part is devoted to the collateral proceedings itself and its current legal regulation. This part deals with the definition of this institute and its characteristics. Its process and particular substantive claims of the injured party which can be asserted in the collateral proceedings are also described in this chapter.

The third part focuses on the topic of the compensation for non-material damage in the case of bodily harm according to sec. 2958 of the Civil Code. This part briefly describes the possible claims of the injured party in the case of bodily harm. The main attention is paid here to the Methodology for compensation for non-material damage in the case of bodily harm issued by the Supreme Court and to the method for determining the amount of compensation for the pain and for the loss of amenity described therein.

The fourth part deals with the topic of the compensation for non-material damage in the case of killing or particularly serious bodily harm according to sec. 2959 of the Civil Code. The main attention is paid to the method for determining amount of compensation for non-material damage in question and to the criteria created by case law, which should be considered by court when determining the amount of the compensation for non-pecuniary damage in question.

The thesis aims to describe the current issue and legal regulation of the compensation for non-material damage in the case of bodily harm and compensation for non-material damage in the case of killing or particularly serious bodily harm in the collateral proceedings. The author expresses opinions on the various selected issues of the legal regulation and eventually provide proposals for amendments to it.

Key words: collateral proceedings, the injured party, compensation for non-material damage