

# **Empirical analysis of non-pecuniary damage compensation to victims of rape**

## **Abstract**

In the last thirty years the image and the position of the victim has changed; as a result, an extra layer has been added to the concept of crime: ‘crime’ nowadays represents a violation of the public interest, as well as a violation of the individual victim’s interest. Also, a limited attention has been paid to the potential of tort law to address the harm of sexual violence. Based on analysis of 350 judicial decision about non-pecuniary damage compensation in rape cases in Czech Republic, this thesis asks: How the criminal courts deal with the monetary claims of the victims, in what amount they awarded them, what rules they use in their decision-making and also what factors play a role in determining the amount. The findings suggest that, in only a third of cases rape victims claims non-pecuniary damage in adhesive proceedings, if they do so, they have a two-thirds chance of succeeding. The courts do not award high non-pecuniary damages, but the victims' claims are not exaggerated either. The regression analysis conclusions reveal that the courts are guided by more by legally relevant factors when determining the amount of non-pecuniary damage, but also reveal statistically significant differences between judicial districts. The most important circumstances for determining the amount of compensation are the seriousness of the act and its circumstances, such as execution. The findings are interpreted in the context of tort law theory and survivor-centred justice. It is suggested that state intervention is needed to better meet victim’s justice interests.