

Liability for material and non-property damage caused by an illegal decision and improper administrative procedure, focusing on the content of the non-property damage institute

Abstract

This diploma thesis deals with the topic of state responsibility for damage and non-property damage caused by an illegal decision and improper administrative procedure, with a focus on the institute of non-property damage. The aim of this diploma thesis is to evaluate the current legislation based on a comprehensive interpretation of the given topic, identify its weaknesses and propose possible solutions *de lege ferenda*.

The first part of the diploma thesis is devoted to a general presentation of Act No. 82/1998 Coll., on liability for damage caused in the exercise of public authority by a decision or improper administrative procedure and on the amendment of Act No. 358/1992 Coll. of the Czech National Council, on notaries and their activities (notary code) and a short historical excursion to provide the necessary historical context to the given issue.

In the second part of the thesis, I depict the interpretation of the concept of illegal decision and give an example of it from practice, mainly focusing on cases of illegal decision in criminal proceedings, such as illegal criminal prosecution, detention or the restriction of personal freedom, because they constitute the most numerous and show the most significant non-pecuniary damage due to the fact that an illegal decision in criminal proceedings negatively affects the psyche of a person through a harmful feeling of insecurity, stress and its defamatory nature.

The third part of this diploma thesis focuses on improper administrative procedure and the compensation provided for it. Attention is drawn to the Standpoint of the Civil and Commercial College of the Supreme Court of the Czech Republic dated 13. 4. 2011, Cpjn 206/2010, which provides Czech courts with guidance on what criteria to consider when awarding compensation for improper administrative procedure and specifies these criteria in more detail, primarily in the light of the jurisprudence of the European Court of Human Rights.

Interpretations regarding the institute of non-property damage are concentrated in the fourth part of this thesis. This part is followed by a description of the procedural aspects of the application of the right to adequate compensation for non-property damage caused by an illegal decision or by an improper administrative procedure, in the light of which, and in the light of the following part regarding the comparison with foreign regulation of compensation, the current legal regulation is evaluated. Considerations *de lege ferenda*, supported by statistical data from the Ministry of Justice, are also concentrated in the conclusion of this thesis.

Key words: [liability for material and non-property damage caused by an illegal decision and improper administrative procedure; non-property damage; proceedings in matters of compensation for damage caused by an illegal decision and improper administrative procedure]