

The Liability of Vicarious Agents in the Czech Civil Code

Abstract

This thesis focuses on the analysis of the concept of the direct liability of vicarious agents, which, although not widely known to the general public, intersects with many everyday situations. The aim of this thesis is to define the scope and content of the direct liability of a vicarious agent through an analysis of the current regulation of vicarious liability in the Czech Civil Code and the progressive development of Supreme Court case law. Since the time of the General Civil Code (OZO), this concept has undergone numerous changes in the Czech legal system. A significant shift occurred with the explicit exclusion of the direct liability of all vicarious agents under the Civil Code of 1964. However, the Civil Code of 2012, which replaced the Civil Code of 1964, did not specifically address the direct liability of vicarious agents, leading to discussions among legal experts about the legislator's intent and future judicial interpretation of these rules. The Supreme Court addressed this issue in its long-awaited decision NS 25 Cdo 1029/2021, which set a precedent resulting in case-based reasoning and inconsistency in its subsequent judicial practice.

To achieve said aim, the first chapter examines the historical development of this concept in Czech law. The second chapter analyzes the sources of inspiration for the Czech regulation, focusing on German and Austrian law as well as international projects such as the Principles of European Tort Law (PETL) and the Draft Common Frame of Reference (DCFR). Particular attention is given to how these legal systems approach the direct liability of employees. The third chapter, forming the core of the thesis, addresses the regulation of vicarious liability in the current Czech Civil Code and the direct liability of vicarious agents themselves. A substantial part of this chapter is devoted to a detailed analysis and critical evaluation of the progressive development of the Czech Supreme Court case law. The thesis assesses the impact of the precedent set by the decision NS 25 Cdo 1029/2021.

To evaluate the current legal framework and various approaches to the direct liability of vicarious agents, the analysis is contextualized within the historical and comparative perspectives described in the first and second chapters. Finally, the thesis formulates *de lege ferenda* proposals that aim to resolve interpretative ambiguities and provide guidance for legislative amendments.

Key words: liability of vicarious agents, tort liability, liability limitation