

Current issues of collateral proceedings

Abstract

This diploma thesis deals with the current issues of collateral proceedings. The collateral proceedings are a part of criminal proceedings in which the private claims of the injured party are being adjudicated. The specificity lies in the fact that the collateral proceedings are also governed by Act No. 141/1961 Coll., Code of Criminal Procedure, as amended, however, the court adjudicates the claims under the substantive rules of private law. The collateral proceedings can only be initiated on the request of the injured party. The aim of this thesis is to introduce readers to the collateral proceedings in the Czech Republic, to point out some controversial parts of the legislation and to answer the related questions.

The thesis is divided into four parts. In the first part I define the term ‘injured party’ and I deal with the interpretation of the related terms such as bodily harm, damage, non-material damage and unjust enrichment. I also present the difference between the injured party, which may or may not be a party to the collateral proceedings. In the course of my explanation of the position of the injured party in criminal proceedings, I pay attention to, inter alia, the possibility of exercising the procedural rights of the injured party only through a common agent, as an example of limiting the participation of the injured party in the criminal proceedings. The next chapter deals with procedural rights of the injured party. In addition to their division, I pay more attention to the instruction of the injured party, but also to the waiver of procedural rights of the injured party. The last chapter of the first part deals with the term ‘victim of a crime’, the purpose of victim's legislation and the difference between the terms victim and the injured party.

The topic of the second part is the legislation of the collateral proceedings. Herein I focus on the comparison of collateral proceedings and civil proceedings, problematics of the parties to the collateral proceedings and the injured party's obligation to assert his claim in time, properly and against a certain person. At the end of this part, I comment on a procedural institute of injured party's claim assurance through the property of the accused person.

The third part is devoted to the subject of the collateral proceedings, meaning the method and the extent of damages, compensation of non-material damage and the surrender of unjust enrichment. This chapter aims to capture the evolution of the legislation and also take into account a few recent case law conclusions. Given the importance of the values of human life and health, I especially focus on the non-material damage in the event of bodily harm and death. Within this topic, a number of issues arise, especially related to the evolution of the legislation. Part three also includes an analysis of thirty criminal court decisions, in which I focused on the issue of

compensation of the so called secondary victims in case of committing the crime of negligent homicide in connection with a traffic accident. The last chapter of this part deals with the limitation of the claim.

The fourth part of this diploma thesis deals with the ways of deciding on the injured party's claim in collateral proceedings and the remedies against such decisions. Herein I pay more attention to the issue of the injured party's inability to legally defend himself against the criminal order. I also comment on the possibility of satisfying the injured party's claim from the bail in case of replacement of the custody and the procedure under Act No. 59/2017 Coll.

Klíčová slova: injured party, collateral proceedings, damages, compensation of non-material damage, surrender of unjust enrichment