

Résumé

My diploma is focused on mutual relationship between the title from liability for damage and the title from liability for defect. Firstly, I tried to explain every institute separately and in the end of my work I dealt with their interrelation.

In the first Chapter I outline a picture of civil liability in the level of juristic theory and I bring a view on the origin and content of civil liability. In this Chapter I point out that the understanding of the term of civil liability is non-uniform, which leads to serious opinion fragmentation.

One of the main tasks of the legal order is to ensure the protection of the society and individual from the conception of damage with the aid of legal rules together with coercive state authority. It means that the protection of their health, property, as well as nature and the environment should be provided. Legal order realizes this task through the prevention of damage conception, what was the object of the second Chapter. I place emphasis on general and special prevention and I clarify in what they vest. General duty prevention imposes to everybody to act so, that no damage to health, property, nature or the environment will happen. Subsequently, special duty prevention imposes to the person, who possesses the risk of damage, to act within the context of its distraction and that in the adequate manner of imminent circumstances.

The third Chapter is devoted to liability for damage. Liability for damage is significant institute and I describe here how important function this liability fulfils in legal order. The basic presumptions of the damage conception are malfeasance or let us say event, damage and causal relationship qualified by law. Thereupon I analyze the presumptions of the liability for damage conception in this Chapter. To draw near these premises I attached further conclusions of judicial practice, which express opinions of premises' fulfilment of liability for damage conception. I mentioned also subjects of liability for damage.

The next Chapter deals with liability for defect. I describe here the function of this institute. Key target of this Chapter is the list of premises which are necessary for the inception of liability for defect and I tried to analyze them. You can find here also the answer for the question what can we understand under the term of defect and I place here also categorisation of defects in accordance with various perspectives. I explain legal liability, legal guarantee and warranty by content.

The fifth Chapter is called “Mutual relationship between the title from liability for damage and the title from liability for defect.” In practice it happens often, that in consequence of defective deliverable cession, occurs in addition to loss of property represented by the defect which devaluates the deliverable alone, moreover a loss of property as damage. Liability for damage occurs due to faulty performance. Damages can be claimed through the liability for damage. In this Chapter I describe the losses which these institutes retrieve and I point at differences between them and I explain their correlation.

In the sixth Chapter I focused on the Act that deals with damage caused by defective product. I defined fundamental concepts of law as used in the Act as well as emphasized the presumption for asserting liability and stipulated the reasons for liberation that enable the producer of the defective product to exculpate from liability.