

The principal topic of this thesis is the issue of personal rights protection, specifically the protection of personal rights in connection with an occupational injury.

My interest in the topic stems from the discrepancy between the statutory damages that may be awarded for non-pecuniary loss under the applicable provisions of Act 40/1964 Sb., Civil Code, as amended¹ (Civil Code) and the damages customarily awarded by Czech courts, which often substantially overstep the boundaries prescribed by the legislature. The Czech courts frequently ascribe to the view, particularly in cases involving a non-pecuniary loss caused by occupational injuries (even where caused by negligence), that the statutory damages, that is damages stipulated by the Civil Code² and by the implementing regulation, do not represent an adequate compensation; as a consequence, the courts in this jurisdiction tend to append to the statutory damages for a single injury or loss of health claim an additional compensation that derives its statutory justification from the provisions of law enacted with a completely different original intent.

Unlike the purely theoretical treatises, this thesis incorporates an extensive case-study based on my comprehensive personal experience in this area that reveals some of the possible pitfalls of personal rights protection cases. The principal advantage of a detailed analysis of a specific case is that it allows tracking the differences in the reasoning adopted by the courts involved in the various stages of litigation; differences that often appear to be driven by the emotional appeal of the case on individual judges. For although the decision-making process of the courts should be as objective and dispassionate as humanly possible, it is nevertheless rather apparent that a completely rigorous and impersonal approach is very difficult to accomplish, particularly in personal rights' violation cases, and that an element of certain subjective sympathy or antipathy toward the aggrieved party is always present in the judicial treatment of such claims. This thesis hopes to assist in achieving a more desirable state of affairs, where more merit would be given to the objective assessment of the case.

¹ Act 40/1964 Sb., Civil Code, as amended, Section 13, original or amended texts from the ASPI system.

² Act 40/1964 Sb., Civil Code, as amended, Section 444, original or amended texts from the ASPI system.