

Abstract

The diploma thesis deals with the civil liability for bodily harm in the Czech and the German legal systems. The German legal regulation has been chosen as a comparison because it has been one of the sources for the new Czech Civil Code. The aim of the thesis is to find out what are the fundamental differences between the both legal systems and which one seems to be more appropriate or just and finally to find out what are the main changes in the new Czech Civil Code.

To find out the answers the method of comparison with the legal regulation *de lege ferenda* and German legal system has been used. The thesis is composed of three parts. The first part describes the Czech civil liability of bodily harm and the second part describes the German legal system. The last part deals with the comparison of the legal institutes in the both legal systems.

The fundamental differences could be evaluated according whether they are in favour to the harmer or the sufferer. The delict liability in the German civil law seems to be positive for the sufferer – patient in the process, because all participating persons involved at wrongful act causing bodily harm are held liable which expands the scope of liable people. The next advantage for the sufferer according the German legal system is that the concrete damage based on a nonmaterial harm is determined by the judge, in contrast to the Czech law, where the amount of damage is regulated by the law.

Conversely for the harmer in the German legal system, the absence of § 421a of the Czech Civil Code appears to be more advantageous, because it establishes strict liability without the possibility of liberation. For the harmer, it is also advantageous that according to the German theory unimpaired survivors are entitled to lump-sum compensation, as it is stated in § 444, paragraph 3 of the Czech Civil Code. Secondly, the bereaved don't have the right to the compensation after the death of the close person. On the other hand, the right to nonmaterial harm passes to the inheritors.

The fundamental changes in the new Czech Civil Code are grounded in the absence of § 444 (2) and (3) (the concrete amount of the damage is determinate by the judge) and in the provision of § 421a in the Czech Civil Code (the liability for the damage based on the defect of the thing).