

Duty to prevent damage and its effects in particular legal branches

Abstract:

The purpose of my thesis is to analyse the duty to prevent damage in the context czech of legal system, to prove that prevention is integral to the system of civil liability and examine special consequences of this duty outside the scope of civil law, i.e. in criminal and administrative law. The reason for my research is increasing importance of revention in modern legal discourse.

The thesis is composed of six chapters, each of them dealing with different aspects of the principle of prevention and its development.

Chapter One is introductory, analyses and defines the phenomenon of prevention in the civil law. The chapter is subdivided into four parts. Part one briefly describes the emphasis on the prevention in civil liability by the law and economics. Part two analyses the principle of *neminem laedere* and its importance within the principle of prevention. Part three draws conclusions from the preceeding parts and defines the duty to prevent damage in the civil law. Part four then describes who might be the subject of such a duty.

Chapter Two examines the development of the principle of prevention within the czech legal system and examples of relevant case law. It is subdivided into four parts, examining succesive civil codes enacted in 1811 (part one), 1950 (part two) and 1964 (part three and four). It also compares typical case law with analogical cases from other jurisdictions.

Chapter Three is subdivided into three parts and deals with specifics of the duty to prevent damage in czech labour law (part one and two) and business law (part three).

Chapter Four is concerned with the new civil code, which has not yet come into effect, analyses possible problems of this new legislation vis-à-vis the principle of prevention, offers possible interpretation of relevant provisions and suggests minor amendments which should be passed.

Chapter Five is divided into two parts and analyses criminal (part one) and administrative (part two) case law affected by the civil duty to prevent damage and mechanisms by which this duty influences these two branches of public law.

Conclusions are drawn in Chapter Six. The main aim of the thesis, i.e. to examine the principle of preventnion within the civil law and to prove that it is indivisible part of civil liability has been reached. I have also analysed special influence of this civil principle on public law and suggested possible methods, which might enable courts to further implement this principle into criminal law and law of administrative delict. Relevance of the duty to prevent damage for other branches of administrative law, however, has been disproved.