

ABSTRACT

Czech courts regularly deal with a question of so-called just satisfaction; particularly, when, on what basis, and how much should be awarded. Just satisfaction, as a form of damages, is primarily compensatory. However, there are some indications that it is perfectly legitimate for law of damages to pursue also another aims than compensation such as prevention or punishment. This view was recently upheld by the Czech Constitutional Court and the Highest Court of the Czech Republic.

According to doctrinal approach, it is the domain of punitive or exemplary damages as a specific Anglo-American instrument that covers these two principles (prevention and punishment). Still, the Czech Civil courts consistently refuse to award exemplary damages albeit they do not provide us any sound argumentation. The author of this article suggests it is inaccurate and only partial understanding of exemplary damages that causes the current judicial refusal of them. While focusing on current English and Czech law, the author in his article describes exemplary damages in great detail with respect to their theoretical, conceptual and systematic position. Subsequently, he shows that the negative attitude of the Czech courts is not always appropriate.

First, looking at relevant case law, the article characterises what the current English law on exemplary damages is, and it also critically compares this law with the Czech legal system. Here we can see some crucial similarities between the two. In the following part, the author characterizes exemplary damages in a broader context, which is necessary for adequate understanding, and he reveals some general aspect of exemplary damages alongside with its position in the system of damages. Besides, the author also looks at applicable European law and its current trends.

Key words: damages, just satisfaction, punitive damages, exemplary damages, common law, prevention, civil liability, vindication, rehabilitation