

Annotation

Liability for damage caused by game

The damage liability poses the key and complex issues of civil substantive law with some aspects not yet properly investigated. The civil liability may have various forms and it demonstrates in a whole range of social relationships, which the doctrine tries to reflect by its systematisation and categorisation. In this respect, for damage caused by animals as special entity presents a specific case liability.

Damage caused by game can be considered as special case mainly as the harmful agent is a living organism, of which the behaviour cannot be predicted to a certain extent. Since 1 January 2014, however, the civil-law regulations take the liability for damage caused by animals explicitly into account and assume that the persons responsible should be the owner of the respective animal or the actual holder. The concept of the liability is based on the owner or holder being aware or related risks and hence acting in a way preventing the animal to cause damage.

While the Civil Code effective from 1 January 2014 regulates the liability for damage caused by animals that is owned by somebody and hence compensates the deficit of previous regulations, the liability for damage caused by game is very problematic and not regulated sufficiently; damage cause by game poses a special subset of animals that is characterised by not belonging to anybody unless seized legally by the authorised entity. The absence of proprietary rights to wildlife as well as the distinctive character of game management make the liability for damage caused by game an extremely difficult topic that raises continuously new questions and conflicts between the stakeholders. However, lawmakers have not succeeded in regulating this special type of liability in a way that would correspond to the specifics of the Czech environment and that would be balanced in parallel.