

# **Methodology for Determination of General Damages in Personal Injury Cases**

## **Abstract**

The thesis examines to what extent the Methodology for Determination of General Damages in Personal Injury Cases (published by the Czech Supreme Court) meets the requirement of Section 2958 of the Czech Civil Code and its explanatory memorandum requesting that fair and just compensation is provided in personal injury cases. Detailed analysis is applied to the process of creating the Methodology, as well as to its individual rules, addressing, consecutively, the compensation of pain and suffering, of “other non-material harm” (a new legal concept under Czech law) and of lowered quality of life. Legal and logical conclusions regarding effects of the respective rules on the amounts of general damages are substantiated also by concrete statistical data, including data on the average amount of compensation for pain and suffering, and for lowered quality of life in the years 2010–2019.

Based on detailed analysis of individual Methodology rules and of the statistical data, the thesis draws a conclusion that the Methodology, in its current form, is not in line with aim of the legislator to provide fair and just compensation in personal injury cases. Therefore, targeted solutions of the respective issues are presented. For the compensation of pain and suffering, it is proposed that as a first step, the value of a “point of pain and suffering” is at least doubled; as a second step, the proposal pertains in a modified point system based on the Defense & Veterans Pain Rating Scale and chronological pain profiling. As to the “other non-material harm”, the thesis proposes a brand-new compensation framework that is based on daily rates during the course of temporary incapacity for work. For compensation of lowered quality of life, it is proposed that a significant modification of the current Methodology rules be implemented, pertaining in lowering the amount of domains under valuation, more adequate setting of the domain weights, as well as replacing the asymmetrical scale of problems with a substantially more intuitive symmetrical scale.

The thesis also elaborates on the new concept of “other non-material harm” and presents a detailed classification of this type of harm, both within an objective category of temporary disability, and within a subjective category of negative emotional states. In this context, the thesis also addresses the requirement of causality and its importance in defining different types of general damages.

**Keywords:** Methodology for Determination of General Damages in Personal Injury Cases, personal injury, general damages