

# **Damage resulting from operating activities**

## **Abstract**

The thesis is devoted to the factual basis of damage from operational activities under the provisions of Section 2924 of the Civil Code, as a special legal regulation in relation to the general regulation of the obligation to compensate for damage.

Firstly, the thesis explains in detail what is meant by operational activity itself, while it is disputed in the doctrine whether its features also include an increased risk of damage. This is followed by a thorough analysis of the case-law, from which criteria are derived to determine whether or not the damage is caused by an operational activity. On the basis of these criteria, a test for operating damage is defined, which represents a thought process that should help in making this determination and thus establish a uniform and more predictable procedure than is currently the case, where individual judges approach this determination in very different ways. It has also emerged from case law that courts, including the Supreme Court, although stating the opposite in some decisions, do not consider an increased risk of damage to be a mandatory feature of operational activity.

Secondly the thesis addresses the question of what type of legal liability is involved. Although the doctrine for the most part leans towards strict liability, paradoxically this majority view is not justified in detail in the literature, while the minority view of subjective liability presents compelling arguments. The author of this paper, who has come to the same view as the majority of the doctrine and also the Supreme Court, thus offers more detailed reasoning on this issue.

Finally, the liberation reason that is contained in the factual basis of damage from operational activities is discussed. The interpretation is structured in a similar way to the first part, i.e. first a synthesis of the meaning of the liberation reason is made on the basis of an analysis of the doctrine, followed by an analysis of the case law. The criteria that should be taken into account when assessing whether the liberation reason is fulfilled on the part of the operator are also abstracted from this.

The whole interpretation is then supplemented by a comparison with the legal regime under the Civil Code of 1964.

**Keywords: operational activity, strict liability, liberation reason**