

Compensation for non-pecuniary damage caused by tax proceedings

Abstract

This rigorous thesis presents ground-breaking case law regarding compensation for non-pecuniary damage arising from an excessive length of tax proceedings. The primary aim of the thesis is to evaluate the potential benefits and pitfalls of the current approach to compensation for the length of tax proceedings and propose its optimal setting. The secondary aim is to explore the possible consequences of expanding the state's liability for damage caused by the exercise of public authority, as illustrated by the current approach to compensation for lengthy tax proceedings.

Compensation for tax proceedings under the regime of an excessive length of proceedings, under which the occurrence of non-pecuniary damage is presumed based on the case law of the European Court of Human Rights, was fundamentally rejected for years due to the absence of the application of Article 6(1) of the Convention to tax matters. However, as a result of the case law of the Constitutional Court, the situation began to change, following the subsequent judgment of the Supreme Court of 31 August 2021, file no. 30 Cdo 3118/2020, tax proceedings were classified among other proceedings assessed in the light of their excessive length. The thesis seeks, among other things, to find an answer to the question whether or not the current setting of compensation for the length of tax proceedings sufficiently balances the interests of the state and the individual.

In writing the thesis, a deductive and analytical-descriptive approach was adopted. The purpose of the first two parts is to describe the development and theoretical foundations of the state's liability for the exercise of public authority, with an emphasis on an excessive length of proceedings. The third and fourth parts of the thesis apply the foundations described in the second part of the thesis to the conclusions of the current case law relating to tax proceedings. The thesis highlights the practical problems in adjudicating claims for compensation for non-pecuniary damage arising from the specific nature of tax proceedings.

According to the author of the thesis, the current approach to compensation for tax proceedings may become an effective remedy, but only under certain conditions. The thesis proposes some practical solutions how to come as close as possible to the ideal that compensation for an excessive length of tax proceedings fulfils its purpose and serves

as compensation for victims who have actually suffered non-pecuniary damage as a result of excessive length of proceedings.

Keywords: non-pecuniary damage, tax proceedings, excessive length of proceeding