

Liability for damage caused by business operation of an entrepreneur

Abstract

This thesis deals with the liability for damages from operational activities according to § 2924 of Act no. 89/2012 Coll., the Civil Code (“CC”), with the aim of defining the prerequisites of this liability, focusing on the concept of operation. The thesis also focuses on systematic interpretation, in particular for the purpose of negative definition of operation according to § 2924 CC, analyzing the meaning and purpose of the legal regulation, as well as answering the question whether the nature of the regulation can be considered as objective or subjective, comparing the current legal regulation with the previous regulation and the PETL regulation. The work focuses particularly on the case law of the Supreme Court, from which it aims to draw general conclusions. In addition, it also peripherally evaluates the related facts of liability for damages, in particular in order to negatively define the term operation.

The thesis concludes that an operation is a gainful activity which is carried out with the intention of doing so on a continuous basis and which is achieved using technologies, objects or procedures which, by their characteristic nature, are characterized by a higher risk of damage to others, generally caused by their technical complexity. In order for damage to arise from an operational activity, it necessarily needs to be in connection with the very nature of the operation, which is characterized by the potential for imminent damage, so that the question of the definition of damage from an operational activity is also to a large extent a question of causality. In order for liability to arise, it is therefore necessary that the operation shall be capable of causing the damage by its very nature. Thus, damage caused by an active conduct of a person involved in the operation directed directly against the victim cannot be considered as damage from operational activities.

The thesis focuses mainly on the liability of the entrepreneur, but it also presents a possible compromise interpretation of the concept of a profit-making establishment, which attempts to correspond between the legislator's intention expressed in the explanatory memorandum and a teleological interpretation.

Key words

operational activity, liability of the entrepreneur, compensation for damages