

Liability for damage to immovable property

Abstract

This thesis focuses on liability for damage to immovable property. Section 2926 of the Civil Code builds on earlier provisions on liability for damage of the old Civil Code, defined in Article 420a(2)(c). The aim of this work was to define the differences between these provisions, to determine whether a distinction is made in the approach to liability for damage to immovable property between an entrepreneur and a non-entrepreneur and, last but not least, to examine where the legislator got the inspiration for not including a liberation ground where this liability is absolute objective.

The first chapter is an introduction to this thesis and a statement of its aims.

In the second chapter I have made a definition of what all things can be immovable and part of an immovable, followed by a look at the history of whether, and where, we have encountered a provision governing liability for damage to immovable property. I then looked at the current definition of liability for damage and compensation, where the facts governing such liability are defined in a single section (Civil Code § 2926). Next, I discussed the possibility of liberation in the event of the occurrence of this damage and, last but not least, the difference in approach to this liability between an entrepreneur and a non-entrepreneur. In my thesis I also analysed the most important decisions of the Supreme Court and lower courts, which also clearly show that the Supreme Court is constant in its case law and agrees with the doctrine's view that it is strict liability without the possibility of liberation.

In the third chapter, I discuss the approach to this liability in the case of activities in the public interest, in particular, whether and to what extent the entrepreneur is compensated for the damage incurred and whether an agreement can be made to waive the requirement for compensation in the case of such activities.

The fourth chapter focuses on defining the difference between liability for damage to immovable property, liability for damage caused by an operational activity and liability for damage caused by a particularly dangerous operation, where the only liability for damage to immovable property does not include the possibility of a liberation.

In Chapter 5 we look abroad, at the German and Austrian legal systems. In this chapter, I investigated whether the legislator found inspiration for liability for damage to immovable property in foreign legal systems.

The sixth chapter is a conclusion containing the answers to the questions that this thesis aimed to answer.

Key words: Immovable thing, strict liability, liberation