

NEW ORIENTATION CRITERIA FOR DETERMINING FAIR MONETARY COMPENSATION FOR NON-PECUNIARY DAMAGE ACCORDING TO THE SUPREME COURT OF THE REPUBLIC OF CROATIA – SOME DOUBTS

Summary

In the article, the author deals with the Orientation Criteria and Amounts for Equity Compensation of Personal Injury of the Supreme Court of Republic of Croatia, adopted on June 15, 2020. (OC 2020). In general, author criticizes the Supreme Court for basing the OC 2020. on the provisions of the Civil Obligations Act from 1991, which, unlike the Civil Obligations Act from 2005, accept the so-called subjective conception of non-pecuniary damage. These OC 2020. contain the Supreme Court's position they should apply to all pending litigations, regardless of the date the lawsuit is filed. Author considers this to be legally grounded because the decision on the amount of compensation for non-pecuniary damage is made according to the circumstances of the time of the decision. This act of the Supreme Court's increases the amounts of compensations determined by the Orientation Criteria of the same name from 2002. (OC 2002) for 50 %. The author deals with problems that could arise from the application of the OC 2020.: retroactivity of applications; a large number of amendments to claims by increasing the amount of claims; bringing in to trouble the position of the insurers of mandatory motor third party liability insurance. In general, author considers that the OC 2020. were necessary because it was necessary to harmonize the amounts of compensation from OC 2002 with the new changes in the economy (inflation, increase in wages) and society (the need for adequate protection of victims especially of road traffic)