XXVI. Slovakia

Anton Dulak

1. Judgment of the Supreme Court of the Slovak Republic, 31 July 2017, Case No 6 Mcdo 1/2016[1]

The court decision in this case deals with liability for the non-pecuniary loss suffered in cases of death of a close relative and the question as to whether insurers will be liable for such damage.[2]

The claimants filed a claim for damages after the death of their mother in a motor accident. The claim was brought against defendant 1 (driver of the motor vehicle) and defendant 2 (insurance company). The court of first instance confirmed the claim to its full extent and the appellate court affirmed this ruling. The Supreme Court examined the decisions of both courts and concluded that the conditions for filing an extraordinary appeal had been met.

Slovak courts began dealing with the issue of compensation for damage caused by the death of a loved one about 20 years ago. One of the first cases is an unpublished judgment of the Prešov District Court (6C 67/04-89) of 18 October 2006. In her claim, the claimant alleged that, on 24 September 2002, her mother died during childbirth due to the incorrect and non-professional conduct of a physician, the defendant's employee. According to the claim, as a result of the death of the claimant's mother, the claimant suffered emotional distress and her right to the protection of privacy and family life was violated (§ 11 of the Civil Code).

In its interpretation of the law and its application to private law, the Court went beyond the previously narrow understanding of damage caused by unlawful and unauthorised interferences with privacy, invoking, in its reasons for the decision, also the case law of the European Court of Human Rights (ECtHR), more specifically the judgments in *Niemnitz v Germany*[3] and *Marckx v Belgium*[4]. The Court's decision was based on the provisions of the Constitution of the Slovak Republic (art 19

[1] ECLI:SK:NSSR:2017:4613209266.1; Coll no 61/2018.

[2] Case reported by *A Dulak*, Slovakia, in: E Karner/BC Steininger (eds), European Tort Law (ETL) 2018 (2019) 589, nos 2–11.

[3] ECtHR 16.12.1992, no 13710/88.

[4] ECtHR 13.6.1979, no 6833/74.

https://doi.org/10.1553/978OEAW51463-Slovakia

para 2), the Convention for the Protection of Human Rights and Fundamental Freedoms (art 8 para 1) and § 11 of the Civil Code governing the protection of private and family life.

This broader, Euro-compliant understanding of non-pecuniary damage, advocated from the outset by some theorists[5] and some judges,[6] has not been accepted without strong reservations. The Constitutional Court of the Slovak Republic also expressed its opposition to the possibility of claiming damages for such harm in a 2014 ruling.[7] The argument was that there is no basis to file a claim for compensation based on the protection of personality rules. It was argued that there is a difference between 'compensation for damage' and 'non-pecuniary damages'.[8] It was also stated that demands for compensation of immaterial damage, raised by the claimant, are already covered by art 444 of the Civil Code. Proponents of a broader concept of harm, on the other hand, argued that both claims are separate legal remedies for the protection of natural persons. As regards the mutual relationship between the two claims, judicial practice has established that these claims are not mutually exclusive: on the contrary, these institutions are interlinked.[9]

Later, the dispute focused on determining whether the party responsible for this damage should only be the person who actually inflicted the damage or whether the insurance company could also be held liable. The main argument was that the term 'damage', as defined in Act no 381/2001 on Compulsory Contractual Motor Vehicle Third-Party Liability Insurance, does not cover a claim for compensation of immaterial damage caused by the infringement of personal rights of the deceased and compensation is not covered by insurance, as defined by art 4, para 2, letter a of Act no 381/2001.

This legal opinion has also been confirmed by the highest judicial authorities. First, the Constitutional Court of the Slovak Republic stated in its 2014 ruling[10] that 'damage suffered as a result of an infringement

[5] *A Dulak*, Liability for Damage, in: M Števček/A Dulak et al, Civil Code – Commentary I, §§ 1–450 (2015).

[6] See the dissenting opinion of Judge Rudolf Pirč in the decision of the Supreme Court of the Slovak Republic of 20 April 2011, Case No 4 Cdo 168/2009.

[7] Judgment of the Constitutional Court of the Slovak Republic of 13 August 2014, Case No I. ÚS 426/2014-31.

[8] Judgment of the Supreme Court of the Slovak Republic of 20 April 2011, Case No 168/2009.

[9] Judgment of the Supreme Court of the Slovak Republic of 28 May 2014, Case No 7 Cdo 65/2013.

[10] Judgment of the Constitutional Court of the Slovak Republic of 13 August 2014, Case No I. ÚS 426/2014-31.

of privacy is to be compensated by the party who is responsible for this infringement only and not by the parties who did not infringe personal rights'. A later decision by the Supreme Court in 2016[11] states that the answer to whether damage caused by the death of a close person is covered by mandatory contractual insurance should be found in the contents of the insurance contract itself. A semantic interpretation of the terms of the insurance contract shows that the term 'damage' only applies to a loss in the material sphere of the injured party, and not to compensation for immaterial harm. In the case of immaterial damage, claims, as defined by art 13 CC, are to be brought only against those who have committed the act of violating another's personal integrity and this is not applicable in relation to an insurance company.

The judgment of the Supreme Court of the Slovak Republic of 31 July 2017, Case No 6 MCdo 1/2016 can be considered important because its publication in the Collection of Court Decisions is intended to prevent the continuation of controversial interpretations of the provisions on compensation for non-pecuniary damage caused to third parties by the operation of a motor vehicle. Thus, the Supreme Court of the Slovak Republic has provided a legal opinion on two previously disputed issues: firstly, damage, as defined by Law no 381/2001 Coll on Compulsory Motor Third-Party Liability Insurance, includes any immaterial harm which is based on the breach of personal rights of the surviving relatives of a victim of a motor road accident caused by the operation of a motor vehicle. Secondly, in the dispute regarding the compensation of this damage, the insurance company is passively legitimised. By publishing it in the Collection, this decision should be considered a model interpretation of legal norms. The Supreme Court's ruling thus has very strong precedential significance.

2. Judgment of the Constitutional Court of the Slovak Republic, 24 October 2017, Case No II. ÚS 716/2016[12]

The Constitutional Court's decision addresses the issue of causality in certain medical cases where the requirement to prove causality beyond reasonable doubt is inappropriate.

In a healthcare facility where blood and blood plasma were collected, an epidemic of infectious viral hepatitis C broke out between 1976 and

[11] Judgment of the Supreme Court of the Slovak Republic of 31 March 2016, Case No III. Cdo 301/2012.

[12] ECLI:SK:USSR:2018:2.US.716.2016.1.

1977 due to an unprofessional blood plasma extraction process. Claimant 1 was one of more than 300 donors who contracted infectious viral hepatitis C while donating blood for plasmapheresis. In 1986, at the request of the hospital and in order to save lives, he also donated blood for his newborn children (claimant 2 and claimant 3). Claimant 1 did not know that he was infected because, for political reasons, it was forbidden at that time to disseminate information about the epidemic. Had he known about the infection earlier, he would have refused to donate blood. Health problems caused by the infection later manifested themselves in all three claimants.

The district court dismissed the action in its judgment of 6 November 2007. The regional court in Bratislava overturned the judgment and referred the case back for further proceedings. The district court again ruled to dismiss the claimants' action in its entirety as unfounded. Claimant 1 lodged an appeal against the regional court's judgment.

The defendant's main argument was that the causal link between blood plasma donations between 1972 and 1977 and the diagnosis of hepatitis C had not yet been proven. Referring to the conclusions of expert opinions, the causal link had not been clearly proven, as other forms of hepatitis C infection, which can also be transmitted in other ways (medical procedures, sexual intercourse, unknown transmission, etc), could be ruled out. According to the defendant, it is not sufficient to make a general consideration of the possible consequences of the tortfeasor's actions or to admit the possibility of damage occurring as a result of their unlawful actions, but causality must be established with certainty. Given that the existence of a causal link cannot be presumed, it must be proven beyond reasonable doubt: mere probability is not sufficient.

The Constitutional Court considered it necessary to state that, from the point of view of evidence in court proceedings, determining the degree of procedural knowledge of decisive facts with absolute certainty is a relatively difficult task. Any evidence of an alleged fact is, in principle, only evidence of its probability. For this reason, there is always a degree of uncertainty involved in proving anything. Absolute certainty that does not allow for any theoretical doubts about a different course of events cannot, for this reason, be considered as a measure of proof if, at the same time, such a requirement places the party bearing the burden of proof in an objectively insurmountable evidentiary situation.

One area where these problems are particularly prominent is in medical-legal disputes. A characteristic feature of these relationships is a significant information asymmetry between the level of knowledge of the healthcare facility and the patient, to the detriment of the patient.

The objective limitations associated with proving causality, as well as the weaker position of the injured patient, are factors that, within the framework of standard evidentiary syllogism, often lead to unfair outcomes. The burden of proof regarding the causal link between the harmful event and the damage suffered by the patient is, as a rule, the reason for the patient's failure in the dispute when the 'all-or-nothing' principle is applied. Such a solution appears to be unfair, especially in cases where the truthfulness of the plaintiff's factual allegations is supported by a high degree of probability.

In such cases, it is necessary to take into account other elements on which the system of liability law is based and to consider them in the context of objective causal uncertainty and unequal positions so that the outcome corresponds to the principles on which liability for damage is constructed. In principle, it is a matter of balancing two conflicting interests, namely the right of the injured party to compensation and, on the other hand, the interest in ensuring that the obligation to pay compensation is borne only by the person who actually caused the damage or could have prevented it by their actions. It is therefore necessary to distribute the uncertainty regarding the causal link fairly. The requirement for a fair balance between the factual inequality of the parties to the dispute is, in principle, fulfilled if, in case of doubt, the decision is made in favour of the party who suffered the damage.

Therefore, according to the Supreme Court, the task of the regional court in further proceedings will be to assess the likelihood of transmission of this viral disease to the claimant, using the method of excluding less probable variants and determining the most probable variant, established by the criterion of an objective, rationally thinking person, taking into account the usual course of events at the time when the viral disease was transmitted to the claimant in the first instance (so-called prima facie evidence) so that there are no reasonable doubts as to the veracity of the facts thus established, even if alternative possibilities for the course of decisive events cannot be completely ruled out in theory.

The Constitutional Court's ruling changes the previous rigid view of causality. For a long time, the *conditio sine qua non* test was recognised as a standard test in establishing liability for damage in Slovakia in all types of cases (see R 7/1992, R 21/1992). The courts often emphasised that the cause of the damage must be substantial, significant and the relationship between cause and effect must be direct.[13] The directness

[13] Judgment of the Supreme Court of the Czech Republic of 30 November 1976, Case No 2 Cz 36/76, published under R 7/1979.

of the cause and effect is sometimes referred to as the 'immediacy' of the cause of the damage, otherwise it would be a mediated relationship.[14]

The abandonment of 100% causal connections came gradually in the context of medical disputes.[15] The cited ruling of the Constitutional Court from October 2017 is not the first decision on the application of the probability test.[16]

The significance of the Constitutional Court's 2017 decision lies in emphasising that in certain cases, particularly in disputes arising from relationships between doctors (healthcare facilities) and patients (clients), the requirement to prove causality beyond reasonable doubt is inappropriate. It is too early to say whether this ruling will also apply to other (similar) situations involving an asymmetrical position between the plaintiff and the defendant. It is equally doubtful that the concept of probability will become the standard for all relationships arising between doctors and their patients in cases of medical malpractice.

3. Judgment of the Regional Court of Trnava, 23 March 2022, Case No 24 Co/71/2021[17]

The decision of the Court of Appeal represents a turning point in the approach to proving causality in medical disputes. It addresses the exceptional situation of the injured party – the impossibility of proving causation where it cannot be objectively determined by any means.[18]

The plaintiff was examined at the University Hospital in 2009. On the third day after her admission to hospital, the plaintiff underwent a cerebral Digital Subtraction Angiography (DSA), after which her condition deteriorated. The plaintiff claimed compensation for damage from the University Hospital in Trnava (the defendant). The court of first instance

[14] Judgment of the Supreme Court of the Slovak Republic, Case No 2 Cdo 292/2006, published under No 2 ZSP 1/2008.

[15] Judgment of the Constitutional Court of the Czech Republic of 26 April 2012, Case No II. ÚS 2682/11; Judgment of the Regional Court in Prešov of 30 November 2016, Case No 10 Co/95/2016.

[16] One of the very first is the decision of the Constitutional Court of the Czech Republic, file no I. ÚS 1919/08. Here, the appellate court argued that the 70% to 80% probability cited by the experts was sufficient to conclude that there was a causal link between the defendant's incorrect procedure and the death of the injured party.

[17] ECLI:SK:KSTT:2022:2112218563.3.

[18] Case reported by *A Dulak*, Slovakia, in: E Karner/BC Steininger (eds), European Tort Law (ETL) 2022 (2023) 573, nos 35–50.

awarded damages for the social hardship and dismissed the claim for pain and suffering on the grounds that it was time-barred. The Court of Appeal upheld the decision of the court of first instance.

In determining causation, the court took into account the expert's opinion, which determined that the most likely (up to 99%) cause of the injury was the performance of the DSA. The court pointed out that sometimes proving the existence of a causal link is difficult or impossible. The impossibility of proving causation arises in particular in the case of liability for damage caused by malpractice in the provision of health care. In medicine, with the present level of knowledge, in the vast majority of cases it is not possible to be absolutely certain about causation, but only to state a certain probability, and that absolute proof of the causal nexus is unrealistic, unattainable and unsustainable in medicine.

This is due in particular to the nature of the human body as a living organism. This is reflected in the fact that, even when effective treatment is provided, the desired consequence of eliminating the disorder is not always guaranteed. In other words, it will not always be possible to establish that it was the failure to provide medical care which caused the consequence of the patient's failure to recover.

According to the court's decision, the theory of loss of a chance is an alternative to the classical concept of liability for damage in cases where the plaintiff (the injured party) is unable to establish with certainty a causal link between the defendant's breach of a legal duty and the occurrence of the damage. The most characteristic feature of this theory is that the plaintiff does not have to prove a 100% causal link between the defendant's conduct and the damage: they must, however, show that, but for the defendant's conduct, they would have had a better chance of a more favourable outcome. In other words, the plaintiff must show both that there was a possibility of a better outcome and that this possibility was adversely affected (or entirely frustrated) by the defendant's unlawful conduct (the harmful event).

According to the legal opinion of both the court of first instance and the Court of Appeal, it is unacceptable that patients who have suffered personal injuries should be burdened with a 100% onus of proof. According to the Court of Appeal, the doctrine of loss of a chance appears to be fair because it is consistent with the principle of proportionality, which also sufficiently protects the injured party.

The fact that both the substantive and procedural legislation in question does not normatively define the concept, the search for answers to these questions is primarily a task of the application of the law manifested in the decision-making activity of the public authorities.

When it comes to explaining the concept of loss of a chance, court rulings do not provide entirely clear positions. In the judgment of the Constitutional Court of the Czech Republic of 2008 as well as in the judgment of the Constitutional Court of the Slovak Republic of 2021, reference is made in their arguments to the case of *Gregg v Scott*,[19] but without detailed explanation.

The judgment of the Regional Court of Trnava of 2022 states that the most characteristic feature of the theory of loss of a chance is that the plaintiff does not have to prove a 100% causal link between the defendant's conduct and the damage: they must, however, show that, but for the defendant's conduct, they would have had a better chance of a more favourable outcome. In other words, the plaintiff must show both that there was a possibility of a better outcome and that this possibility was adversely affected (or entirely frustrated) by the defendant's unlawful conduct (the harmful event). The damage occurs through a reduction in the hope of achieving a better result, and the requirement of proving a causal link is significantly weakened and must be excluded when the loss of a chance itself is not hypothetical (negligible) but the chance of a better result was real. According to the theory of loss of a chance, it is sufficient to prove that the defendant's actions deprived the plaintiff of a certain opportunity to prevent the damage from occurring or to reduce the severity of the harm suffered. It is therefore not necessary to prove that the tortfeasor is fully liable for the entire harm. However, if the relationship between cause and effect is too hypothetical, the plaintiff will not succeed with their claim even if this theory is applied.

The judgment of the Regional Court in Trnava and a later decision of the Prešov District Court[20] offer solutions in certain specific (medical malpractice) cases. Such acceptance of the loss of a chance theory represents a huge leap in the reasoning of Slovak courts willing to change their assessment of the situation of the injured party, who very often finds themselves in a situation where they lack evidence, through no fault of their own. The cause is not only the poorer availability of evidence (eg medical records), less knowledge of the environment, but also objective obstacles – the impossibility of proving causation where it cannot be objectively determined by any means.

[19] [2002] Court of Appeal (Civil Division) (EWCA Civ) 1471 per Latham LJ at [39]; confirmed by *Gregg v Scott* [2005] United Kingdom House of Lords (UKHL) 2; [2005] 2 Weekly Law Reports (WLR) 268).

[20] Judgment of the Regional (Appeal) Court in Prešov of 10 December 2024, Case No 5 Co/29/2024.

4. Judgment of the Regional Court Nitra, 2 October 2013, File no 9 Co/330/2012[21]

The court's decision from 2013 is significant not only because of the highest amount of compensation ever awarded for personal injury in Slovakia. Perhaps greater attention should be paid to the reasons why the court ruled this way.[22]

Claimant 1 had undergone a simple nasal septum surgery. During the operation and subsequent post-operative care, the hospital (its employees) committed a serious breach of several of their obligations, which resulted in claimant 1's irreversible and permanent brain damage, termed as permanent vegetative state (pseudo coma) or 'social death'.

Claimant 1, claimants 2 and 3 (parents of claimant 1) and claimants 4 and 5 (siblings of claimant 1) demanded the payment of compensation for injury. With minor modification, the county court, as a court of appeal decided in favour of the claimants. The court ordered the defendant to pay to claimant 1 € 17,942 as compensation for pain, the amount of € 181,667 as compensation for reduced capacity for social life and the amount of € 200,000 as compensation for immaterial injury due to the infringement of his right to health. Furthermore, it ordered the defendant to pay to claimant 2 the amount of € 90,000; claimant 3 the amount of € 90,000; and claimants 4 and 5 € 10,000 each as compensation for the immaterial injury suffered due to the infringement of their right to privacy.

The court ruling is noteworthy for several reasons. Firstly, the court accepted the idea that compensation claims for damage to health are specific claims in relation to general claims accrued in the regime of personality rights.

Furthermore, when examining the preconditions for liability for the damage caused, the court did not focus solely on the unlawfulness of the defendant's conduct. The court argued that the defendant's position in society could not be ignored. According to the court, when examining the possibility of preventing damage to another person's health, a higher degree of responsibility must be imposed on doctors as professionals than that imposed on laypersons, ie non-professionals.

The court, when considering the basis for awarding damages under sec 11 of the Civil Code, was also concerned with the function of this legal institute. According to the court, the decisive goal should not only

[21] ECLI:SK:KSNR:2013:4109209960.5.

[22] Case reported by *A Dulak*, Slovakia, in: E Karner/BC Steininger (eds), European Tort Law (ETL) 2013 (2014) 589, nos 5–23.

be satisfaction, but also prevention and deterrence, thus damages should become a tool to achieve the aim of prevention, both special and general. Therefore, the court expressly states that this judgment serves as a warning to all doctors that the obligation to proceed *lege artis* is a fundamental duty of the physician in the exercise of his profession.

In its reasoning, the court paid particular attention to the question of the degree of culpability of the tortfeasor – when assessing culpability, it is necessary to evaluate the degree of gross negligence or even a series of grossly negligent acts of the tortfeasor. Subsequently, the seriousness of the infringement should be reflected in the amount of monetary satisfaction awarded. The court therefore took particular account of the fact that serious complications arose solely as a result of the negligence of the defendant's doctors. According to the court, 'this was a case of incredible contempt for life and health in a place where people paradoxically entrust themselves to the hands of doctors and expect them to fight for their health and lives using all their abilities.' The court explained the appropriateness of the compensation because 'such an unprofessional and negligent approach by the defendant cannot be justified.' The court also took into consideration the circumstances under which the health damage had occurred. It held that claimant 1 had undergone a simple operation; it was not therefore a risky type of surgery where the chances of its success were minimal.

In determining the amount of compensation awarded, the court applied established criteria. The amount of compensation for claimant 1 was justified on the ground that he '...was young, very gifted... from which it is obvious that he approached the preparation for life in order to further himself as best he could in life.' When determining compensation for claimants 2 and 3, the court argued that the amount determined by the court of first instance was deduced from the unimaginable pain and despair which they must endure as a result of the injury to claimant 1's health, whereby this effect is even worse because they have to witness this pain on a daily basis without any hope that this condition will improve in the future. The consequences of the damage to health also have repercussions for claimants 4 and 5, who cannot receive the care and attention that they need due to the daily care of claimant 1, who needs parental care at all times, 24 hours a day.

Proving their very close relationship with claimant 1 was important in determining the amount of compensation for the siblings. On the other hand, the court reduced the compensation which was originally sought on the grounds that claimants 4 and 5 were young, could continue their education and were likely to start families themselves and would be able to live a full life, which could not be said of their parents.

The cited court decision certainly deserves attention for several reasons. First and foremost, it deals precisely with all the prerequisites for liability for damage. It does not only note that the defendant breached his duty but further emphasises that the defendant is a physician who, given his position in society, is expected to demonstrate a high level of professionalism. The court describes the physician's conduct as gross negligence, even though the Civil Code does not explicitly use this term. On this basis, the court decided on a high compensation award, which is not only intended to constitute satisfaction, but also a certain form of warning. Finally, when determining the amount of compensation, the court takes into account the nature of the damage – in terms of the effects of the damage ie, the pseudo comatose state of claimant 1, which could be argued to be worse than death.

5. Judgment of the Regional Court Žilina, 28 September 2022, Case No 7 Co/122/2022[23]

The analysed court decision is the first judgment in which a court passed a decision on compensation for damage caused by a protected animal.[24]

On the basis of the results of an investigation, it was established that the death was caused by an animal, namely a brown bear (Ursus arctos). The deceased's wife (plaintiff 1) and her two daughters (plaintiff 2 and plaintiff 3) sought compensation for the loss suffered as a result of the death of their husband and father. The plaintiffs asserted their claim against the District Office Ružomberok, Department of Environmental Care (defendant 1) and the Ministry of the Environment of the Slovak Republic (defendant 2). In its judgment, the District Court ordered defendant 2 to pay non-pecuniary damages in the amount of € 30,000 to plaintiff 1, and € 15,000 each to plaintiffs 2 and 3, a decision which was upheld by the Court of Appeal.

The decision in this case required the resolution of several legal issues. Firstly, the current Civil Code (Act No 40/1964 Coll) has no express provision on liability for damage caused by an animal (domestic or wild). The liability of defendant 2 was established pursuant to sec 97 ff of Act No 543/2002 Coll on nature and landscape protection, since it is the Ministry of the Environment which issues the decree establishing the list of animals[25] for which the State is liable.

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[23] ECLI:SK:KSZA:2022:5921202017.1.

[24] Case reported by *Dulak*, ETL 2022 (fn 18) nos 2–13.

[25] The brown bear (Ursus arctos) is listed in Annex 39.

Secondly, it was necessary to decide whether the provisions on State liability for damage caused by protected animals concerns only compensation for pecuniary damage and not rights of a non-pecuniary nature as was argued by defendant 2. The Court of Appeal did not accept this argument and referred to the case law on compensation for emotional harm suffered by secondary victims in traffic accident cases.[26]

Thirdly, the defendant disagreed with the reasoning of the court of first instance that it had failed to properly fulfil its obligations in implementing measures to regulate the number of brown bears, or that it had failed to provide a natural environment in which there would be no encounters with bears. In its submissions, it pointed out that deaths caused by brown bears are *vis maior* and that there is no connection between the regulation of brown bears and the number of attacks or deaths caused by dangerous encounters between brown bears and humans. It is not possible to conclude with certainty that there will be fewer dangerous encounters between brown bears and humans if 'the necessary regulatory measures' are taken. The Court of Appeal did not accept this objection, arguing that the State's liability arises from the special liability regulation, which is objective in nature. The State is therefore liable irrespective of whether it properly fulfilled its obligations to regulate the number of brown bears or whether there is an overpopulation of brown bears.

Determining the amount of compensation also proved problematic, since similar claims have not yet been decided by the Slovak courts. The court stated that the amount of compensation was established in the range of € 10,000 to € 30,000 for one victim (depending in particular on the intensity and quality of the relationship with the primary victim), or possibly less. However, higher amounts are not entirely exceptional.

The case has become the subject of controversy. Among other things, the media commented extensively on the amount of compensation awarded for the loss of a loved one in relation to the social value of the bear, which is € 5,000 and the amount to be paid for a permit to shoot a bear is approximately the same.[27] The court's decision prompted a promise to amend the relevant laws, which has not yet been fulfilled. However, the cited decision from 2022 influenced further judicial practice. The judgment of the Regional Court in Banská Bystrica of 15 January 2024, Case

[26] An example is the liability of the operator of a means of transport under sec 427 of the Civil Code.

[27] According to Decree No 170/2021. Source: <https://zasahovytim.sopsr.sk/medved-hnedy/>.

No 14 Co/59/2024[28] is one such example. In this case, the court awarded compensation for damage to personal rights to a plaintiff injured by a brown bear, together with compensation for pain and suffering and social hardship. The Court of Appeal considered the amount of € 15,000 awarded as non-pecuniary compensation to be appropriate, as this amount represents half of the amount awarded to secondary victims who lost a close family member as a result of an encounter with a protected animal (brown bear).

Against the defendant's objections regarding the extent of his obligation to pay damages, the court considered it necessary to emphasise that '...the reason for adopting the 2002 act on nature and landscape protection is, on the one hand, the prevailing social interest in protecting and preserving endangered animal species, but at the same time, it is the acceptance of legitimate demands by those who are affected by the damage caused. The State should ensure compensation for the damage incurred, mainly because of the society-wide interest in protecting these species.'

[28] ECLI:SK:KSBB:2024:6623203320.1.