

The subject of the dissertation „Liability for indirect violation of rights and interests. Civil law and insurance aspects.” is to identify terms and the scope in which compensation of indirectly injured parties would be justified from both legal and economic perspective.

Traffic accidents or medical injuries may lead to death or serious disability of directly injured parties. However, it cannot be forgotten that those dramatic consequences of traffic accidents or medical injuries affect people who are not directly injured, causing their damages both material (loss of the source of income) and non-material (suffering caused by the loss of a close person). As a result, a legal dilemma arises if people who are injured indirectly should have a claim for compensation, especially in extreme situations, that is loss of a close person because of culpable or at least unlawful infliction on such person of death or vegetative state. Resolution in favour of the advisability and desired scope of compensating indirectly injured parties is significant not only from the point of view of consequences of medical malpractices or traffic accidents, that are main threads of this research, but also will apply in case of other events capable of causing indirect damages. As an example, one could speak of damages suffered by a football club in consequence of a culpable injury of one of the club's players, or damages suffered by stockholders whose stocks are diminished in value as a result of a damage caused to the company.

The question of “indirect damage” currently poses a challenge to all jurisdictions in which compensatory liability has been adopted. As a result, that problem is not limited to the legal system of one country but has universal significance for the law of tortious liability. It turns out that both in Europe and outside its borders legislators and the judiciary have problems answering even such simple question as whether it is possible at all or desirable to compensate indirectly injured parties. For this purpose, special significance attaches to the legal systems of Germany, France, the United Kingdom and the United States. The above ones had been chosen due to the fact they represent three crucial legal systems: Germanic model, Romanic model and common law. In the laws of those countries, the possibility has been envisaged of asserting claims by indirectly injured parties (*mittelbar Geschädigter*, *victimes par ricochet*, secondary victims), however, such possibility looks different in the specific systems. The considerations will also relate to Polish law in which, over the last 10 years, the legislator, the judiciary and academic authors have been coping with presenting the legal and economic justifications of compensating indirectly injured parties.

The legislator should frame the possibility of compensating indirectly injured parties in order to ensure the consistency of the legal sense of such compensation with its economic and social justification. For that purpose, it is also indispensable to evaluate existing solutions in

respect of compensating indirect damages within the framework of tortious liability in the context of positive economic theory and attempt to formulate recommendations in the area of normative economy.

In the judgment of 27.3.2018, the Supreme Court held that a Court may award compensation for non-material damage to the close persons of the injured party who, as a result of a tort, suffered a severe and permanent health detriment (see III CZP 60/17, MoP 2018 nr 8, p. 387). At the same time, in the resolution of 22.10.2019, it was concluded that people close to the injured party who, as a result of a tort, suffered severe and permanent health disorder are not entitled to monetary compensation for non-material damage under Art. 448 CC. (see I NSNZP 2/19, MoP 2019 nr 23, p. 1250). Those two diametrically opposing views demonstrate how important it is to determine the basis and limits of compensatory liability for causing a health detriment to a close person of the claimant. These are not issues specific only to Polish law since similar dilemmas had to be answered also in other legal systems.

Also the Principles of European Tort Law (PETL), which become an inspiration for legislators and the judiciary, takes a liberal approach to compensating moral damage. Similar approach was adopted in the Draft Common Frame of Reference in Art. VI.2:202(1).

Nevertheless is to consider indirect violations in the context of insurance law. The question of indirect violation of the sphere of rights and interests has crucial importance not only from the point of view of the boundaries of compensatory liability in civil law but from the perspective of the activities of insurers and the commercial insurance market as well. This is far more important in the context of rising number of traffic accidents which are the source of a detriment suffering by indirectly injured parties. For these reasons important are the grounds of insurance cover, including the basis for asserting claims by indirect victims, and insurance risk essential to the operation of insurance undertakings.

Given the above remarks comprehensive juxtaposition of the compensating models for indirect damage in the selected legal systems would allow, on one hand, to see the shortcomings of legal solutions and, on the other one, to formulate main premises on which foreign legal systems are based. The above would allow to find the answer to the question which solutions might be recommended for implementation in the system of tort law so as to resolve the dispute about the need for and scope of compensating for indirect damages. It is essential to take into consideration the economic analysis of law and the scope in which tort law is adequate or sufficient to resolve such type of situations.