

CROATIA

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Quantum of non-material damage

- The quantum of non-material damage cannot be precisely determined
- The relevance of the document called „**Orientation criteria and amounts for determining the size of just pecuniary compensation for non-material damage issued at the session of the Civil Department of the Supreme Court of the Republic of Croatia held on 29 November 2002** (the Orientation criteria)”

Orientation criteria

- Soft-law, non-mandatory document intended to harmonise the case-law with respect to the quantum of non-material damage
- Build upon the so-called subjective concept of non-material damage
- Extremely rarely, if at all, deviated from by the courts in Croatia
 - Arguably, due to the Supreme Court's strict adherence to these criteria

The first signs of a new trend

- Rev-x 319/14-2 of 21 May 2014
 - Non-material damage due to severe disability of a close relative
 - The first instance court awarded HRK 500,000 (approx (€ 65,789))
 - The second instance court reversed the first instance decision and decreased the awarded amount to HRK 230,000 (in accordance with the Orientation criteria)
 - The Supreme Court reversed the second instance decision and awarded HRK 500,000

The new trend continued

- Rev 1705/11-2 of 2 February 2016
 - The victim injured in the traffic accident was awarded HRK 108,600 (approx. € 14,480)

The first instance court found the victim's life activity to be impaired to 50 %

The first instance court found the victim to have contributed to the accident to 50%

- The second instance court lowered the awarded compensation to HRK 85,000 (approx. € 11,333)

The court found the appropriate just pecuniary compensation for the 50 % impairment of the victim's life activity to be HRK 140,000 (€ 8,666)

The new trend continued

- The defendant filed a motion for an extraordinary revision before the Supreme Court claiming that the awarded amount goes substantially beyond what is defined in the so-called Orientation criteria
- The Supreme Court dismissed the motion for an extraordinary revision, opining that the question posed bears no relevance for the unified application of law.

The Orientation criteria are not mandatory

The courts are entitled to award higher amounts of just pecuniary compensation if this is justified by the circumstances of the case

The new trend continued

- The same approach taken in
 - Rev 2267/11-2 of 5 January 2016
 - Rev 492/12-2 of 20 January 2016
 - Rev 283/12-2 of 10 February 2016
 - Rev 1464/10-2 of 13 April 2016

Comments

- An obvious trend of increase of just pecuniary compensation
- An obvious trend of decrease of relevance of the Orientation criteria
- Possible negative impact on legal certainty and predictability in the field of non-material damage