

RESPONSIBILITY FOR DAMAGE CAUSED BY ILLEGAL ACTS - LEGAL AND ECONOMIC ANALYSIS IN THE LAW OF THE REPUBLIC OF SERBIA

Vladeta Boričić¹, Milena Knežević², Aleksandar Rajković³

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Review Article

Abstract

State liability for damage caused by unlawful acts is one of the basic mechanisms for protecting citizens' rights and implementing the rule of law. In the legal framework of the Republic of Serbia, this institute has its constitutional and legal basis, while its practical application raises numerous theoretical and practical questions. The aim of the paper is to present, through normative-legal and economic analysis, the key elements of state liability, the challenges in proving it, and the impact of case law on legal certainty. Special attention is paid to the analysis of existing domestic and international research, as well as the economic consequences of state liability for public finances. The paper concludes that a functional system of state liability contributes to strengthening trust in institutions, but requires uniform case law and more precise normative regulation in order to achieve a balance between the protection of individual rights and fiscal stability.

Keywords: *state liability, case law, legal certainty, public finances.*

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Introduction

The institution of state liability for damage caused by unlawful acts represents one of the basic mechanisms for protecting the rights of individuals in modern legal systems. It reflects changes in the relationship between the state and

¹ Vladeta Boričić, School of Engineering Management, University "Nikola Tesla", Email: borovicvladeta@gmail.com, ORCID ID: <https://orcid.org/0009-0003-2310-4275>

² Milena Knežević, associate professor, Military Academy, University of Defense, Belgrade, Email: milena.knezevic@mod.gov.rs, ORCID ID: <https://orcid.org/0000-0003-2814-7453>

³ Aleksandar Rajković, assistant professor, Military Academy, University of Defense, Belgrade, Email: rajkovic.aleksandar1991@gmail.com, ORCID ID: <https://orcid.org/0000-0001-6137-3749>

citizens, whereby the state is no longer viewed as an entity with absolute power, but as a subject that must align its actions with legal norms and principles of the rule of law. State liability for damage caused by unlawful or improper actions of public authorities has a dual role: compensatory, expressed through compensation for damage to injured persons, and preventive, because it stimulates lawful and conscientious action of state authorities. In this context, state liability is closely linked to the principle of the rule of law, which implies that all holders of public authority, including the state, must respect the law and be subject to legal control. Legal certainty, as one of the key pillars of the rule of law, requires that citizens can foresee the legal consequences of the actions of state authorities, as well as have effective legal remedies in the event of a violation of their rights. If the state is not held liable for damage caused by unlawful acts, legal protection remains formal, and citizens' trust in institutions is significantly undermined. For this reason, the institute of state responsibility is increasingly viewed not only through the prism of civil liability, but also as a key element of the overall constitutional legal system.

An analysis of the development of state responsibility in comparative law shows a gradual abandonment of the concept of state immunity. In continental legal systems, such as French and German, special models of state responsibility have been developed that deviate from the classical rules of the law of obligations. French doctrine, through the principle of *faute de service*, emphasizes the functional responsibility of the administration, while German law uses the *Staatshaftung* system, which integrates constitutional and civil law elements. In addition to national systems, the practice of the European Court of Human Rights has a significant influence, which, in interpreting the European Convention on Human Rights, insists on the existence of an "effective legal remedy" in cases of violation of convention rights, including the right to compensation for damage caused by the actions of state authorities.

In the law of the Republic of Serbia, state responsibility for damage has a clear constitutional foundation, but its practical application raises numerous controversial issues. Particularly pronounced are the challenges in terms of proving the illegality of an act, the causal link and the amount of damage, as well as the unevenness of case law. In addition to legal aspects, the economic effects of state liability are also becoming increasingly important, especially in relation to public finances, budgetary responsibility and fiscal sustainability. The costs of legal proceedings and the payment of compensation can have a serious impact on the state budget, which raises the question of the optimal balance between the protection of citizens' rights and the stability of public finances.

This paper has a review character and is based on the analysis and synthesis of existing theoretical and empirical findings from domestic and foreign literature, as well as relevant case law. The aim of the paper is to identify key theoretical and practical problems in the law of the Republic of Serbia, through the systematization of the constitutional and legal foundations of state liability for damage caused by unlawful acts. A special contribution of the paper is reflected in the connection of legal and economic aspects of state liability, i.e. in considering the impact of case law on legal certainty and the analysis of the fiscal implications of this form of liability, which is insufficiently integrated in domestic literature.

Methodologically, the paper is based on a normative-dogmatic analysis of constitutional and legal provisions governing state liability for damage, then on an analysis of the case law of the highest judicial instances in Serbia, as well as a critical review of relevant domestic and foreign literature. Also, elements of economic analysis of law (law & economics) are applied in order to examine the broader effects of state liability on the behavior of public administration and public finances.

Based on the above, the paper poses the following research questions: do legal solutions in Serbia enable effective compensation for damage to persons injured by unlawful acts; how does case law affect legal certainty and predictability; and what are the economic effects of state liability on public finances and fiscal discipline. By defining this analytical framework, the paper contributes to existing research that seeks to connect the legal and economic aspects of state liability in the modern legal system.

The constitutional and legal basis of state responsibility in the Republic of Serbia

State responsibility for damage caused by illegal acts is a basic instrument for protecting the rights of individuals and supervising the exercise of public authority. In the legal system of the Republic of Serbia, this institute has a multi-layered normative basis that includes constitutional provisions, general rules of obligation law, but also special laws in the field of administrative law. Its application and interpretation are additionally shaped by judicial practice, including the practice of the European Court of Human Rights.

The Constitution of the Republic of Serbia as the basis of state responsibility

The Constitution of the Republic of Serbia from 2006 lays a strong constitutional foundation for state responsibility for damage. Of particular importance is Article 35 of the Constitution, which guarantees the right of every

person to compensation for material and non-material damage caused by illegal or improper work of state bodies, bodies of territorial autonomy, local self-governments, as well as holders of public authority (Vasiljević, D. & Vasiljević, Z., 2024). This constitutional norm confirms that the state cannot be exempted from the general rules of responsibility, thus strengthening the legal protection of the individual in relation to the government.

The right to compensation from Article 35 of the Constitution is directly related to the principle of the rule of law, which is one of the basic constitutional principles. The rule of law implies the obligation of the state to act within the law, legal certainty and the responsibility of authorities for the consequences of illegal actions. In this sense, the state's responsibility for damage is not only an individual right of the injured party, but also a systemic mechanism of government control and prevention of arbitrary action.

In domestic legal theory, it is emphasized that the constitutional guarantee of the right to compensation for damages has a double role: reparative, because it enables compensation for the damage suffered, and preventive, because it encourages authorities to act legally and conscientiously (Krstić et al., 2023). Nevertheless, although the Constitution establishes a clear normative framework, its application in practice depends on legal regulations and judicial interpretation, which opens up space for different approaches and possible inconsistencies.

The Law on Obligations and State Responsibility

A key place in the legal regulation of liability is occupied by the Law on Obligations (ZOO), which prescribes the general rules of tort liability. According to these rules, legal entities are liable for damage caused by their bodies or employees to third parties in the performance or in connection with the performance of their functions. The state is viewed as a separate legal entity subject to the rules of the law of obligations.

The specificity of state responsibility is reflected in the fact that it is usually related to illegal or irregular acts of public authorities, including administrative acts, individual decisions and factual actions (Brants, 2020). In contrast to the classical obligation relations between private persons, the responsibility of the state raises the question of the relationship between the public law and private law spheres, which often complicates the application of the general rules of the ZOO.

Domestic authors, such as Radulović and Vasiljević, point out that the ZOO does not contain sufficiently precise rules adapted to the specifics of state

responsibility, but rather it is developed through judicial practice. A special challenge is the determination of the cause-and-effect relationship between the illegal act and the resulting damage, especially when the damage is the result of complex administrative procedures or long-term decision-making.

Special laws and the administrative legal framework of responsibility

In addition to the ZOO, special laws from administrative law also play an important role in regulating the responsibility of the state. The Law on State Administration prescribes the obligation of authorities to act legally, professionally and efficiently, which indirectly establishes the basis for liability in case of violation of these obligations. Although the law does not directly regulate compensation for damages, it sets the standards of legal behavior, the violation of which can be the basis for state responsibility (Pavelek & Zajickova, 2023).

The Law on Public Services further expands the circle of subjects whose illegal behavior may cause the state to be held responsible, including public institutions and other subjects that perform activities of general interest (Hemed, 2022). This confirms the modern trend of spreading the concept of responsibility to the holders of public authority outside the classic state administration.

Of particular importance is the Law on Administrative Disputes, which enables judicial review of the legality of administrative acts. Although the primary goal of an administrative dispute is the annulment of an illegal act, its role is also significant for the realization of the right to compensation for damages, because the determination of illegality is often a preliminary issue in civil proceedings.

The relationship between constitutional, administrative and civil liability

The responsibility of the state for damage in the legal system of Serbia is characterized by a complex relationship of constitutional, administrative and civil liability. The Constitution guarantees the right to compensation for damages, administrative law regulates the legality of actions of authorities, while civil law provides a reparation mechanism.

In theory, it is emphasized that the absence of a single law on state responsibility leads to the fragmentation of legal regulations and the reduction of legal security of injured persons (Milanović & Gojkov, 2024). The question of whether an administrative dispute must first be conducted for the annulment of an act or whether a lawsuit for damages can be initiated immediately is often the subject of judicial dilemmas, which makes it even more difficult to exercise the rights guaranteed by the constitution.

The impact of the practice of the European Court of Human Rights (ECtHR)

The practice of the ECtHR is of great importance for the interpretation and application of domestic rules on state responsibility. In its judgments, the court emphasizes the existence of an effective legal means for the protection of the rights of individuals, including the right to compensation for damages due to the illegal actions of the state (Petrović, J., & Petrović, P., 2025). Analyses of the compliance of domestic law with the European Convention indicate that the formal existence of legal means is not enough, but they must be effective in practice.

Comparative doctrine shows that legal systems such as the French (*faute de service*) and the German (*Staatshaftung*) have developed clearer models of state responsibility, with specific rules adapted to the public law nature of the relationship. These models are often cited in domestic literature as possible examples for improving the normative framework in Serbia.

Elements of responsibility and the problem of proof

The responsibility of the state for damage caused by illegal acts is based on the general principles of civil liability, but with specifics arising from the character of the state as the bearer of public authority (Vasiljević & Radović, 2023). Although the legal framework in the Republic of Serbia theoretically allows compensation for damages, practice shows that the realization of this right often encounters complicated evidentiary issues and strict procedural requirements.

Basic elements of liability for damage

An illegal act constitutes the basic precondition of state responsibility. It is an action or an act of a state authority, that is, a holder of public authority, which is in conflict with the Constitution, the law or another normative act. Theoretically, it is emphasized that illegality can be (Radovanović, 2025):

- material (wrong application of rights),
- formal (violation of procedure),
- constitutional (violation of constitutional rights).

The domestic literature indicates that the courts often narrowly interpret the concept of illegality, connecting it exclusively to the previously annulled administrative act, which limits the possibility of seeking compensation for damages (Vilks et al., 2024).

Damage can be (Baretić, 2020):

- property (ordinary damage and lost profit),
- non-property (infringement of reputation, honor or personal rights).

Proving the lost benefit is particularly problematic, because the courts require a high degree of certainty, which is often not easily achievable in practice. The authors point out that this further complicates the position of injured parties in relation to disputes against private entities.

The causal link between the illegal act and the resulting damage is one of the most complicated elements of proof (Savić & Bonić, 2022). Judicial practice in Serbia generally requires direct and clear causality, which often leads to the rejection of lawsuits when there is indirect or cumulative causation. The literature indicates that such an approach is not always in line with modern trends in comparative law, which accept more flexible models of causation, especially when the perpetrator is the state.

Although the theory emphasizes the elements of the objective responsibility of the state, jurisprudence often implicitly requires proof of the body's guilt, which creates a normative and practical mismatch. Thus, the responsibility of the state becomes more similar to the classic delict model, contrary to its constitutional function.

Specifics of proof in the case of state responsibility

One of the main problems in practice is the question of whether illegality must be previously determined in a separate procedure (eg administrative dispute) or whether it can be proven directly in civil proceedings. Courts generally require prior annulment of the act, which prolongs the process and increases costs for the injured party (Janković & Golubović, 2025). The procedural law literature points out that this approach is not always justified, because the civil court can assess the legality of the act as a preliminary issue.

The burden of proof is formally on the prosecutor, but the question of fairness arises, taking into account (Cela et al., 2023):

- information asymmetry,
- the institutional supremacy of the state,
- limited access to relevant evidence.

Some authors propose a partial inversion of the burden of proof, especially with regard to the legality of the actions of state authorities, which is a solution present in some comparative legal systems.

In the case of damage caused by administrative acts, the causation is often multi-layered and distant in time. Courts in Serbia rarely apply the concept of adequate causation, insisting on strict immediacy, which further reduces the chances of success of lawsuits against the state.

The distinction between (Krivins et al., 2024) is particularly significant:

- annulled administrative act, where the illegality was formally established,
- an illegal but formally valid act, which produces legal effects until it is repealed.

The right to compensation is generally recognized only in the first case, although theory shows that the second scenario can also cause serious violations of citizens' rights. Such a restrictive approach calls into question the full effectiveness of the constitutional right to compensation.

Injured persons face numerous challenges (Slavković et al., 2024):

- length of procedures,
- high costs,
- uneven judicial practice,
- uncertainty of outcome.

These problems also have broader social consequences, because they discourage citizens from seeking judicial protection and reduce the preventive function of the state's responsibility.

Review of the literature and practice of the European Court of Human Rights (ECtHR)

In domestic and foreign literature, the importance of an effective legal remedy is highlighted, in accordance with Article 13 of the European Convention on Human Rights. The practice of the European Court emphasizes that the right to compensation must be (St-Georges et al., 2023):

- really available,
- effective in practice,
- reasonably foreseeable.

In several judgments, the Court pointed out that overly formalistic evidentiary requirements may constitute a violation of the Convention, especially in the context of state responsibility.

The analysis of literature and court practice shows that the system of state responsibility in Serbia formally meets the basic standards, but often does not provide effective protection of injured persons. The dominant problems are the restrictive interpretation of illegality, the strict application of the burden of proof and the narrow understanding of causation. The synthesis of the author's views shows the need for (Bartholomew, 2022):

- normative specification of the state's responsibility standards,
- more flexible proof of illegality and causation,
- unifying judicial practice in accordance with the standards of the ECtHR.

Such an approach would contribute to the strengthening of legal certainty and enable an effective preventive and corrective function of state responsibility in the modern legal system.

Jurisprudence and legal certainty

Judicial practice has a significant role in defining and advancing the institution of state responsibility for damage resulting from illegal acts. Although the constitutional and legal foundations of this responsibility are relatively clearly established, the courts, through the interpretation and application of legal norms, create practical standards that determine the scope and effectiveness of the protection of citizens' rights. In this way, judicial practice forms a link between the formal legal framework and the actual exercise of rights. In the systems of continental law, including the legal system of the Republic of Serbia, judicial practice formally has no original legal force, but in practice it significantly influences the unification of the interpretation of laws and the strengthening of legal certainty. Especially in the domain of state responsibility, where legal norms are often general and abstract, judicial practice contributes to the development of precise criteria for determining illegality, causation and the scope of damages.

Legal theory indicates that through judicial practice, the "standard of care" expected from public authorities is gradually established, as well as the border between permissible discretionary action and illegal action that entails the responsibility of the state (Krsting & Dworschak, 2012). In this sense, the role of the highest judicial instances is particularly important, because their legal opinions guide the practice of lower courts and public administration. The Supreme Court of Cassation (SCC) is the central body in the harmonization of judicial practice related to the civil liability of the state (Ugrinov et al., 2025). Its decisions most often deal with the issues of the existence of an illegal act,

the causal relationship and the scope of compensation, as well as the question of whether the previous annulment of an administrative act is a condition for compensation. Analyzing the relevant decisions, it can be seen that the Supreme Court of Justice insists on stricter proof of the causal link between the illegal actions of the authorities and the resulting damage. Although this approach protects public finances, it often makes the position of injured persons more difficult, especially when the damage is the result of complex administrative processes.

At the same time, in some decisions, the Supreme Court of Justice took the position that the state is responsible even when the illegality of the act is subsequently established, thus expanding the legal protection of citizens. Such positions strengthen legal certainty, but their application is not always consistent in the practice of lower courts. The Administrative Court has a specific role in the context of state responsibility, because its decisions are often the basis for compensation (Mihajlović & Savić, 2024). Annulment of an illegal administrative act in an administrative dispute is usually a prerequisite for initiating a lawsuit for damages. The analysis of the practice of the Administrative Court shows that it mostly remains within the formal control of the legality of acts, while it approaches the consequences of illegality for the property rights of the parties indirectly. This approach, although in accordance with the administrative procedure, creates room for legal uncertainty, because the parties must subsequently prove the existence of damage and a causal connection. An additional problem is the long duration of administrative disputes, which, in combination with the subsequent procedure for compensation, prolongs the realization of citizens' rights. This aspect of practice affects individual legal security and the perception of the effectiveness of judicial protection as a whole.

The Constitutional Court of the Republic of Serbia has a significant function in controlling the constitutionality and legality of the actions of state bodies and protecting rights guaranteed by the constitution. In the context of state responsibility for harm, its decisions often refer to the violation of the right to a fair trial, an effective legal remedy and the right to property (Nagy, 2022).

The Constitutional Court has repeatedly emphasized the state's obligation to provide effective compensation mechanisms for damages caused by the illegal actions of authorities. The reference to the standards of the European Court of Human Rights is particularly significant, which contributes to the harmonization of domestic practice with European legal frameworks.

However, constitutional judicial protection is subsidiary and cannot completely compensate for the shortcomings of regular court practice (Marković-Bajalović, 2016). Its immediate role in the legal security of citizens is limited, but it is significant in setting general standards.

One of the main problems in the area of state responsibility for damage in Serbia is the unevenness of judicial practice (Savić et al., 2025). Different courts, and even different chambers of the same court, sometimes take opposing views on the same issues, such as the conditions for the existence of liability or the scope of damages. Such unevenness creates legal uncertainty and reduces the predictability of decisions. Citizens and legal entities can hardly assess the prospects of success in a dispute, which reduces trust in the judicial system. Legal theory points out that uniform practice is a basic element of the rule of law. The consequences of the existing practice are reflected on several levels. Citizens experience uncertainty in the protection of rights, while institutionally inconsistent practice reduces the preventive effect of the state's responsibility. Public authorities do not have clear guidelines on the consequences of illegal actions. At the same time, clear and uniform standards could have a positive effect on the work of public administration, encouraging legal and responsible behavior. Thus, judicial practice is not only an instrument for the protection of individual rights, but also a means of improving quality of public administration and strengthening trust in state institutions. Domestic and foreign literature emphasizes the connection between court practice and legal certainty (Ullrich, 2021). The authors point out that without a stable and predictable practice, even the best legal norm cannot provide effective protection of rights, emphasizing the role of the highest judicial instances in setting clear standards. The research part of the work is based on a qualitative analysis of the decisions of the Supreme Court of Cassation, the Administrative Court and the Constitutional Court, without statistical methods. The analysis shows that, although there are positive developments in the development of state responsibility standards, there are still significant challenges in the uniformity and predictability of judicial practice.

Economic analysis of state responsibility

Economic analysis of law, also known as Law & Economics, represents an interdisciplinary approach aimed at examining legal norms and institutions through the perspective of economic rationality, efficiency and optimal distribution of resources. The basic assumption of this approach is that legal rules shape the behavior of individuals and institutions, and that their social justification can be assessed by analyzing the costs and benefits they generate.

In this framework, responsibility for damage is treated as an instrument that directs the behavior of actors towards socially desirable outcomes, reducing the total social costs of illegal or negligent actions (Nikolić, 2025).

Classical representatives of the economic analysis of law, such as Posner, emphasize that the primary function of the institute of responsibility is preventive, that is, it acts *ex ante*, motivating actors to align their actions with legal norms in advance in order to avoid future costs of compensation for damages (Marković, 2023). In contrast, Shavel emphasizes the corrective dimension of responsibility, because it enables the internalization of negative externalities that arise as a result of illegal actions.

The application of this theoretical framework to state responsibility indicates that it is not an exclusive means of protecting individual rights, but also an important tool for improving the efficiency of public administration and the rational use of public funds. From the aspect of economic analysis, state responsibility for damage caused by illegal acts has a strong preventive role (Dragojlović & Grujić, 2018). If the state did not bear the consequences for the illegal actions of its authorities, the costs would fall entirely on the citizens, which would lead to an inefficient distribution of risks and an increase in total social costs.

By introducing the obligation to compensate for damage, the state is encouraged to improve the quality of normative acts, administrative procedures and internal control. The economic logic of this principle is based on the internalization of costs: damage from illegal acts ceases to be an "external cost" for the state, but becomes a direct financial burden on the public budget.

In this way, the responsibility of the state functions as a signal to public bodies that compliance with legality is economically rational, because the cost of illegal behavior exceeds the costs of prevention, including better education of officials, more precise regulations and more effective supervisory mechanisms. In addition to the preventive function, the responsibility of the state also contributes to the strengthening of internal discipline within the public administration. Although the state as a legal entity formally bears the compensation for damages, the economic pressure created through frequent disputes and compensations can trigger organizational changes.

The literature emphasizes that developed state accountability systems more often introduce internal controls, recourse liability of officials and better risk management (Savić et al., 2024). In this way, the state indirectly influences the behavior of individual holders of public authority, even when they do not bear direct financial consequences. Economically speaking, this contributes to the

reduction of "agent problems" in public administration, where officials (agents) sometimes do not have sufficient incentives to act in accordance with the interests of the state and citizens (principals). State responsibility, combined with internal supervision, reduces the space for opportunistic behavior and increases the efficiency of the administrative system (Đokić et al., 2025).

State liability for damage also has an impact on public finances. Payments based on court judgments represent unplanned or hard-to-predict expenditures, which can burden the budget and threaten fiscal stability. In this sense, part of the literature warns that an overly broad or imprecise system of responsibility can cause significant fiscal costs (Cvetković-Đorđević, 2015). However, the economic approach shows that these costs must be seen in a broader framework: the costs of compensation may be lower than the costs of systemic violations of legality, including the loss of citizens' trust, legal uncertainty and the reduction of the state's investment attractiveness.

From the perspective of budget planning, the existence of state responsibility requires the development of mechanisms for the identification and control of legal risks. In this way, the responsibility of the state encourages fiscal discipline, because it forces the authorities to consider in advance the financial consequences of their decisions. One of the key challenges of economic analysis is the risk of moral hazard. It can arise both with state authorities and with citizens: if officials know that the costs of illegal actions are borne by the state, there may be a decrease in individual responsibility and attention in work.

On the other hand, there is a danger of excessive litigation, i.e. launching a large number of lawsuits against the state when the probability of success is low or the damage is minimal. This increases transaction costs, burdens the courts and further burdens the budget. Economic theory suggests that the solution lies in the precise normative regulation of liability conditions, clear evidentiary standards and alternative dispute resolution mechanisms, which reduce litigation costs and do not violate the right to legal protection.

The key issue is finding a balance between protecting the rights of citizens and preserving the stability of public finances. An overly restrictive system of responsibility can threaten the protection of rights and the rule of law, while an overly broad system can undermine the fiscal sustainability and efficiency of the administration. Contemporary literature emphasizes the importance of a functional approach, which takes into account the character of the legal system, the institutional capacities of the state and the level of public finances. The responsibility of the state should not be seen only as an expense, but as an

investment in legal certainty and institutional efficiency, the positive effects of which are manifested in the long term.

Conclusion

State responsibility for damage caused by illegal acts is a key legal institution of the modern legal system and a direct expression of the principles of rule of law, legal certainty and protection of individual rights of citizens. The analysis contained in this paper shows that the aforementioned institute in the legal order of the Republic of Serbia is normatively based on both the constitutional and legal levels, but that its practical application still reveals certain weaknesses and disagreements.

The paper states that the Constitution of the Republic of Serbia guarantees the right to compensation for damages caused by illegal or inadequate work of state bodies, while the detailed regulation of this right relies on the provisions of the Law on Obligations and special regulations in the field of administrative and judicial law. Nevertheless, despite relatively clear normative frameworks, practice shows that the realization of this right often depends on complex evidentiary procedures, inconsistent judicial positions and a restrictive interpretation of the state's responsibility.

In particular, the problems related to proving the cause-and-effect relationship between the illegal act and the resulting damage, as well as the delimitation of the responsibility of the state and individual officials, are highlighted. The analysis of court practice shows the existence of different approaches of the courts in the interpretation of the term "illegal act", which negatively affects the predictability of court decisions and the level of legal certainty.

From the aspect of economic analysis of law, it is concluded that the responsibility of the state has a double role: reparative, in the sense of compensating injured persons, and preventive, because it motivates public authorities to act lawfully and conscientiously. At the same time, the absence of a systematic approach to managing the risks of adverse claims can result in additional fiscal burden and unplanned budget expenditures.

The existing legal framework can be assessed as formally adequate, but functionally insufficiently precise and consistent. Norms regulating the responsibility of the state are fragmented, and the courts are left with a wide space for interpretation, which leads to uneven decisions in similar factual situations. The lack of clear criteria for determining the extent of damage and standards of causation in disputes against the state is particularly problematic.

Uniform judicial practice is of key importance for achieving legal certainty and citizens' trust in the legal order. In the domains of state responsibility, uneven practice creates legal uncertainty, increases the number of disputes and reduces the preventive function of this institute. The role of the highest judicial bodies, especially the Supreme Court of Cassation and the Constitutional Court, is essential for the establishment of clear standards and uniform decision-making criteria.

Based on the conducted analysis, the following recommendations can be made:

- Normative recommendations imply a more precise legal definition of the responsibility of the state, especially with regard to the definition of an illegal act, standards of causation and rules on the burden of proof. Consideration of the adoption of a special law on state responsibility could contribute to greater clarity and systematicity of the legal framework.
- Institutional recommendations refer to the strengthening of the role of the courts in standardizing practice, improving the professional training of judges and civil servants, as well as the development of internal control mechanisms for the legality of the work of administrative bodies in order to prevent damage.
- Fiscal recommendations include the need for more efficient planning and recording of the state's potential obligations based on compensation for damages, as well as the establishment of a system for managing fiscal risks arising from court cases against the state. In this way, greater transparency and long-term sustainability of public finances would be ensured.

Future research could focus on empirical analysis of court proceedings against the state, including the frequency, amount of compensation awarded, and their impact on public finances. Also, comparative legal research on the system of state responsibility in the member states of the European Union could provide useful guidelines for the improvement of the domestic legal system. Of particular importance would be interdisciplinary research that connects law, economics and public administration, with the aim of assessing the overall impact of the state's responsibility on the efficiency and legality of the work of public authorities.

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ODGOVORNOST DRŽAVE ZA ŠTETU PROUZROKOVANU NEZAKONITIM AKTIMA - PRAVNA I EKONOMSKA ANALIZA U PRAVU REPUBLIKE SRBIJE

Apstrakt

Odgovornost države za štetu nastalu nezakonitim aktima predstavlja jedan od osnovnih mehanizama zaštite prava građana i ostvarivanja principa vladavine prava. U pravnom okviru Republike Srbije ovaj institut ima svoje ustavno i zakonsko uporište, dok njegova praktična primena postavlja brojna teorijska i praktična pitanja. Cilj rada je da, kroz normativno-pravnu i ekonomsku analizu, predstavi ključne elemente odgovornosti države, izazove u dokazivanju i uticaj sudske prakse na pravnu sigurnost. Posebna pažnja posvećena je analizi postojećih domaćih i međunarodnih istraživanja, kao i ekonomskim posledicama odgovornosti države po javne finansije. Rad zaključuje da funkcionalan sistem odgovornosti države doprinosi jačanju poverenja u institucije, ali zahteva ujednačenu sudsku praksu i preciznije normativno uređenje radi ostvarivanja balansa između zaštite prava pojedinaca i fiskalne stabilnosti.

Ključne reči: *odgovornost države, sudska praksa, pravna sigurnost, javne finansije.*

JEL: *K13, K23, H83*

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