

LIABILITY FOR DAMAGE TO LAND – THE CASE OF THE CZECH REPUBLIC

ZODPOVEDNOSŤ ZA ŠKODU NA POZEMKOCH – PRÍPAD ČESKEJ REPUBLIKY

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I Introduction

If damage occurs as a result of water erosion and causes losses to property and houses located on neighbouring plots, the question arises as to who bears responsibility for such damage. In recent decades, extreme rainfall events combined with inappropriate agricultural land management have increasingly led to severe erosion. Agricultural parcels are frequently cultivated by tenants under lease agreements, while ownership remains with private landowners. During intense erosion events, large quantities of topsoil, sediments, and runoff water may be transported from agricultural land into

built-up municipal areas, causing significant damage to residential buildings, roads, drainage systems, and other infrastructure⁽¹⁾.

Water erosion represents one of the most serious forms of soil degradation in Central Europe and is particularly problematic in the Czech Republic and Slovakia, where a substantial proportion of agricultural land is classified as erosion-prone. Research has shown that water erosion not only reduces soil fertility and agricultural productivity but also generates significant

1 Janeček (2012).

Abstract (EN)

Water erosion is a significant environmental problem that increasingly causes damage to agricultural land, private property, and municipal infrastructure in the Czech Republic. During heavy rainfall events, topsoil may be washed from agricultural fields into neighbouring properties and built-up areas, resulting in substantial economic losses. As agricultural land is often cultivated by tenants under lease agreements, while ownership remains with landowners, determining liability for erosion-related damage presents important legal challenges. This article examines the Czech legal framework governing compensation and liability for damage caused by soil erosion. It analyses relevant provisions of the Act on the Protection of Agricultural Land Fund, the Water Act, and civil liability legislation, together with selected court decisions concerning erosion-induced damage. Particular attention is paid to the allocation of responsibility between landowners and tenants and to the courts' interpretation of statutory preventive obligations. The analysis shows that liability generally arises from a breach of legal duties to prevent soil degradation and erosion. Courts have emphasized that extreme rainfall does not automatically exclude liability where appropriate anti-erosion measures could have reduced the damage. The analysis concludes that both landowners and tenants may be held responsible depending on the circumstances of the case and their compliance with soil protection obligations.

Keywords (EN)

liability for damage, compensation, soil protection, water erosion, environmental protection

Abstrakt (SK)

Vodná erózia predstavuje významný environmentálny problém, ktorý v Českej republike čoraz častejšie spôsobuje škody na poľnohospodárskej pôde, súkromnom majetku a obecnej infraštruktúre. Počas intenzívnych zrážok môže dochádzať k splavovaniu ornice z poľnohospodárskych pozemkov na susedné parcely a do zastavaných území obcí, čo vedie k značným hospodárskym stratám. Keďže poľnohospodársku pôdu často obhospodarujú nájomcovia na základe nájomných zmlúv, zatiaľ čo vlastnícke právo zostáva vlastníkom pozemkov, určenie zodpovednosti za škody spôsobené eróziou predstavuje významnú právnu otázku. Príspevok skúma právny rámec náhrady škody a zodpovednosti za škody spôsobené pôdnou eróziou v Českej republike. Analyzuje relevantné ustanovenia zákona o ochrane poľnohospodárskeho pôdného fondu, vodného zákona a občianskoprávnej úpravy zodpovednosti za škodu, ako aj vybranú súdnu prax týkajúcu sa škôd spôsobených eróziou. Osobitná pozornosť je venovaná rozdeleniu zodpovednosti medzi vlastníkov pozemkov a nájomcov a výkladu zákonných preventívnych povinností zo strany súdov. Analýza ukazuje, že zodpovednosť za škodu spravidla vzniká v dôsledku porušenia právnych povinností zameraných na prevenciu degradácie pôdy a erózie. Záverom analýzy je, že za vzniknutú škodu môžu byť v závislosti od okolností prípadu zodpovední tak vlastníci pozemkov ako aj ich nájomcovia.

Kľúčové slová (SK)

zodpovednosť za škodu, náhrada škody, ochrana pôdy, vodná erózia, ochrana životného prostredia

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off-site impacts, including sediment deposition, flooding, contamination of watercourses, and damage to private and public property. These off-site consequences often impose considerable economic costs on local communities and municipalities^{(2),(3)}.

The issue of liability is closely linked to compliance with legal obligations concerning soil protection and sustainable land management. Where erosion damage results from inadequate farming practices, failure to implement anti-erosion measures, or non-compliance with statutory obligations, responsibility may be attributed to the person managing the land. Several studies have highlighted that land tenure arrangements can influence erosion risk, particularly where tenants prioritize short-term economic returns over long-term soil conservation measures. In such cases, repeated erosion events may occur despite compliance with minimum regulatory requirements, indicating the need for stronger preventive measures and clearer allocation of responsibility between landowners and tenants^{(4), (5)}.

Compensation for damage to agricultural land in the Czech Republic is governed by statutory rules stipulating that the amount of compensation is determined according to the costs required to restore the land to its original condition. Consideration is given to the possibility of restoring both productive and non-productive soil functions and to the nature and extent of the damage, including topsoil loss, gully formation, sediment deposition, or contamination. Restoration costs may include soil surveys, laboratory analyses, earthworks, and the removal of deposited sediments. Compensation may also extend to damage to agricultural crops, where the amount is determined according to the market value of the affected crop at the time of the damage.

In addition to direct damage occurring on agricultural land, modern soil conservation research increasingly emphasizes the significance of off-site damages. Economic analyses have demonstrated that erosion-related sediment transport can generate substantial costs associated with infrastructure repair, drainage maintenance, flood mitigation, and property restoration. Such external costs often exceed the immediate losses experienced by farmers and may ultimately be borne by municipalities, property owners, or public authorities if liability cannot be clearly established⁽⁶⁾.

Consequently, effective prevention of erosion through sustainable land management practices,

such as contour farming, strip cropping, grassed waterways, buffer strips, and reduced tillage systems, is increasingly regarded as a fundamental tool not only for soil conservation but also for reducing legal disputes concerning compensation for erosion-induced damage. Studies conducted in the Czech Republic have confirmed that plot size, land-use intensity, and management practices significantly influence the occurrence and recurrence of erosion events, highlighting the importance of preventive measures in minimizing both environmental and economic losses⁽⁷⁾.

II Materials and Methods

The article used the method of analysis of the legal regulation of the anti-erosion legal regulation and the Act on the Protection of Agricultural Land Fund. The article also analyzes the decision-making practice of courts regarding compensation for damage caused by soil erosion.

III Results and Discussion

An analysis of the decision-making practice of the courts shows that there are not many decisions on the matter of compensation for erosion damage. The only one found was issued by the District Court in Rokycany. The District Court in Rokycany, by its judgment of 4 October 2016, file no. 6 C 136/2012-441, ordered the defendant (tenant) to pay the plaintiff CZK 313,281 with default interest of 7.5% per annum from 1 November 2012 until payment, dismissed the claim for payment of another CZK 313,281 with accessories and decided on reimbursement of the costs of the proceedings⁽⁸⁾.

It was based on the finding that on 20 June 2012, in connection with heavy rain, there was an extensive erosion event consisting of the washing away of topsoil from a land block sown with corn, managed by the defendant, which caused damage to the plaintiff's property in the amount of CZK 729,874, which consists of the costs of removing mud from the road, from the ditches along the road, from the pond and from the courts, and from the costs of repairing the courts including the fence. The plaintiff (municipality) received a special-purpose subsidy of CZK 150,000 for the flood damage resolution event and financial assistance from the Regional Office of the Pilsen Region in the amount of CZK 50,000.

In the case of sowing the soil block with a narrow-row crop, erosion washout would be significantly reduced (by 77.7%). The court assessed the plaintiff's

2 Quinton & Fiener (2024).

3 Boardman et al. (2009).

4 Poláková et al. (2018).

5 Sklenička et al. (2022).

6 Borrelli et al. (2021).

7 Sklenička et al. (2022).

8 The Supreme Court (2025).

claim under Section 420(1) of Act No. 40/1964 Coll., the Civil Code (hereinafter referred to as the “Civil Code”), and concluded that the defendant violated Section 3(1)(d) of Act No. 334/1992 Coll., on the Protection of Agricultural Land, because its activities caused the disturbance of land by erosion, it also violated Section 27 of Act No. 254/2001 Coll., the Water Act, because it did not take care of the land in such a way as to prevent deterioration of water conditions, in particular soil erosion by water, and it also violated the preventive duty under Section 415 of the Civil Code.

The plaintiff suffered damage as a result of the defendant’s breach of legal obligations. The court applied Section 450 of the Civil Code, took into account the subsidies received by the plaintiff, the location of the municipality in the terrain, i.e., that it is located in a valley, and took into account that it was an extreme torrential rain. At the same time, it applied Section 136 of the Civil Procedure Code, stating that even if the defendant had not breached any legal obligation, some damage, the amount of which can only be quantified with disproportionate difficulty, would have occurred as a result of the rain itself. Taking into account the subsidy paid and other circumstances, it freely determined the amount of the plaintiff’s claim at half of the requested amount, i.e., CZK 313,281.

On appeal by both parties, the Regional Court in Pilsen, by its judgment of 22 March 2017, file no. 12 Co 68/2017-478, confirmed the judgment of the court of first instance and decided on reimbursement of the costs of the appeal proceedings. It proceeded from the factual findings of the court of first instance, agreed with its conclusion that the statutory requirements for liability for damage had been met, and, unlike the court of first instance, did not apply Section 450 of the Civil Code, but concluded that the defendant was liable for damage only to the extent of 80%, because 20% of the damage would not have been prevented even if the land had been sown with a suitable crop. It agreed with the deduction of the amount that the plaintiff received as a special-purpose subsidy, and also agreed with the procedure under Section 136 of the Civil Procedure Code, given that even after submitting all invoices and conducting an expert opinion, it was not possible to determine the exact amount of damage.

The judgment of the Court of Appeal was challenged by both parties in an appeal. The plaintiff’s appeal was directed against the part of the ruling that confirmed the judgment of the court of first instance in the negative ruling on the merits (by CZK 313,281 with accessories). She considered the admissibility of the appeal to be that the contested decision depends on the resolution of a question of substantive law, in the resolution of which the Court of Appeal deviated from the established decision-making practice of the Court

of Appeal, that the contested decision depends on the resolution of questions that have not yet been resolved in the decision-making practice of the Court of Appeal, that the already resolved legal question is to be assessed differently by the Court of Appeal.

She formulated the still unresolved question of whether torrential rain is an unavoidable event (force majeure) leading to partial exemption from liability for the damage caused. She further objected that the court’s conclusion about lower damage in the case of sowing with another crop was pure speculation, she disputed the conclusion that the damage due to the flood would have been incurred by the municipality due to its location in a valley, and she considered it an incorrect deduction of the subsidy received. She disagreed with the application of Section 136 of the Civil Procedure Code if the amount of damage was proven by an expert opinion. She proposed that the court of appeal annul the judgment of the court of appeal in the contested ruling and return the case to it for further proceedings.

The Supreme Court of the Czech Republic assessed an incorrect legal assessment of the case (Section 241a, paragraph 1 of the Code of Civil Procedure), which may consist in the fact that the appellate court assessed the case according to an incorrect legal regulation, or that it incorrectly interpreted a correctly used legal regulation, or incorrectly applied it to the facts of the case. About Section 3079, paragraph 1 of Act No. 89/2012 Coll., Civil Code, effective from 1 January 2014, the case is assessed according to the current regulations, i.e. according to Act No. 40/1964 Coll., Civil Code, as amended until 31 December 2013, as it concerns the right to compensation for damage arising from a breach of an obligation stipulated by legal regulations, which occurred before 1 January 2014⁹.

According to Section 3, Paragraph 1 of Act No. 334/1992 Coll., on the Protection of Agricultural Land, in the wording effective until 31 March 2015 (i.e. before the amendment implemented by Act No. 41/2015 Coll.), land owners or lessees must manage agricultural land in such a way as not to pollute the land, and thus the food chain and sources of drinking water, with harmful substances threatening the health or life of people and the existence of living organisms, not to damage surrounding land and the favourable physical, biological and chemical properties of the soil, and to protect cultivated land according to approved land development projects.

According to Section 27 of Act No. 254/2001 Coll., the Water Act, land owners are obliged, unless otherwise provided by a special legal regulation, to ensure care for them in such a way as to prevent deterioration of water

9 The Supreme Court (2025).

conditions. In particular, under these conditions, they are obliged to ensure that there is no deterioration in drainage conditions, no soil erosion by water, and to ensure that the retention capacity of the landscape is improved⁽¹⁰⁾.

The Supreme Court stated that both cited provisions impose a special preventive obligation on land owners and tenants (in relation to the general preventive obligation enshrined in Section 415 of the Civil Code) to protect the soil in such a way as to prevent its removal by erosion activities and deterioration of its physical, biological and chemical properties, e.g. also by soil disturbance by erosion, as can be deduced from the later more precise wording of Section 3(1)(d) of Act No. 334/1992 Coll.; this provision was reformulated by the amendment implemented by Act No. 41/2015 Coll. for the purpose of specifying the obligations in the protection of agricultural land⁽¹¹⁾.

If the defendant did not take sufficient measures to counter a natural event, such as torrential rain, although such an option was available, it violated this special preventive obligation, and if, as a result of its violation of its obligation, there was a massive washout of topsoil during rain and damage occurred, it is liable for it under Section 420(1) of the Civil Code. Its liability cannot be assessed under Section 420a of the Civil Code, because the consequence of the defendant's violation of procedures during agricultural activity does not originate in operational activity, i.e. the cause of the damage was not the activity itself, which is of an operational nature, or the thing used in this activity, and the factor causing the damage was not the physical, chemical or biological effects of the operation on the surroundings⁽¹²⁾.

The courts of both instances, therefore, applied the correct legal norm to the case at hand. If the defendant is liable for the damage caused pursuant to Section 420(1) of the Civil Code, it is out of the question to consider the ground for release pursuant to Section 420a(3) of the Civil Code. The Court of Appeal used inappropriate wording when it stated that "the defendant has released itself from liability for the damage to the extent of 20%", but the reasoning of the contested decision shows that it assessed the causal link between the defendant's breach of duty and the damage incurred and concluded that the defendant's breach of legal duty led to damage to the extent of 80% of the total damage, while 20% of the damage would have been incurred as a result of torrential rain even if the defendant had not breached any preventive duty.

He therefore correctly assessed the fulfilment of the prerequisites for the occurrence of liability for damage under Section 420 of the Civil Code.

Torrential rain as a cause leading to the occurrence of damage could generally be a circumstance excluding liability for damage under the regime under Section 420 of the Civil Code, concerning the absence of fault. However, this cannot be the case in the present case, since the statutory preventive obligation is aimed precisely at implementing measures that minimize the adverse impact of natural conditions or events on agricultural land.

The following follows from the above analysis:

1. Liability of the owner of agricultural land

The owner of the land has general liability for the condition of his property, and if he has caused damage, he is often held liable. The owner may also be liable if he has failed to fulfil his duty to maintain the land in good condition and has allowed the damage to occur.

2. Tenant Liability

A tenant, as a user of the land, may be liable for damage caused by careless management or lack of care, such as improper agricultural practices. If the tenant directly caused the damage through his activities, he is liable for it. In some cases, where there is a contract between the owner and the tenant, liability may be defined in the contract, for example, by a contractual provision that may exclude compensation for damage.

How to proceed when resolving compensation for damage in the context of erosion:

1. Assessment of the cause of the damage: The court will determine whether the primary cause of the damage is the negligence of the owner or the activities of the tenant.
2. Determination of liability: Based on the assessment of the cause of the damage, the court will determine who is liable.
3. Filing a claim: The injured party must file a claim for compensation for damage with the competent court or with the perpetrator, within the limitation period.

Key factors for maintaining soil quality (solutions and recommendations for addressing precautionary measures):

- Contract: What kind of contract does the owner have with the tenant? What are the provisions regarding liability and care of the land?
- Agreements and covenants: If there were agreements between the owner and the tenant regarding compensation for damages, these agreements will be key in the court's decision.

10 Jordana (2000).

11 Collection of Laws of the Czech Republic (2025).

12 Kotovicová (2009).

- Possible fault: Although in some cases liability may be strict (e.g., liability for damage caused by traffic), in the case of erosion, fault (intention or negligence) will likely be key.

IV Conclusions

The balance of legal regulations and decision-making practice shows that if the defective condition caused by soil erosion is not voluntarily remedied, or if another erosion event occurs and subsequent property damage occurs, compensation for damage can be claimed not only from the tenant, but also from the owners of the land from which the erosion event occurred, since everyone must have known about this problem with water erosion. At the same time, it is possible to turn to the court, as a potential victim, to impose appropriate and proportionate measures on the specific owners and tenants to avert this imminent damage.

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