
Mexico - Damage to the life project and its impact on liability insurance

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The "Damage to the Life Project" has been defined by the IACHR¹ as the loss or serious impairment of personal development opportunities, in an irreparable or difficult to repair state, with respect to a reasonable expectation to access certain opportunities².

This damage is quantified over the probability of occurrence of events in an individual's normal development, whose development was drastically modified as a result of the event resulting in liability³, and must seek to indemnify the integral project of life of the victim, under a criteria of a reasonable expectancy.

This institution differs from the moral damage, and under the Mexican legal framework, could be demanded by the victims. To date, the compensation of the damage has been made through the award of symbolic compensations; however, the trend is to associate these to a material compensation⁴.

It could be thought that excluding the indemnifications associated with this damage would protect the insurance market, but the absence of a breakdown of concepts in the judges' sentences would force the payment, its argument associated with a interpretation open to innovation, presents a challenge to Underwriting, risk assessment and objective determination of reserves, resulting in increased legal risks in the LatAm region⁵.

¹ InterAmerican Human Rights Court

² Loayza Tamayo vs. Peru Case. Awards and legal costs. Resolution on November 27. 1998. Serie C No. 42. Para. 150

³ Ibidem. Para. 153 y 154.

⁴ IAHR. 'Street Children' (Villagran Morales et al) vs Guatemala Banking Supervision Committee of Basilea. Para 84

⁵ The Banking Supervision Committee of Basilea has defined legal risk as the possibility of being sanctioned, fined or forced the payment of punitive damages as a result of supervision actions or any private agreement of the parties.

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