

8. RESUME

The submitted dissertation thesis reflects the recent state of legal protection of personality in the Central European social paradigm, while structurally interpreting its cornerstone aspects in the area of health care.

For a significant period of time, relevant legal discourse on protection of personality and personal integrity in the Czech Republic, focused on the area of health care, was lacking. The submitted thesis in its whole content strives for a complex and intensive analysis of personal rights applicable within the provision of health care. The primary intent of the dissertation is a consequent examination and explication of the issues of human personality values/goods – natural goods appearing in the course of the private-law relationship between a physician and a patient. All that in correlation with the objective law and axiomatic nature of legal principles and with particular regard of the prioritised value-goods of life and health.

Therefore, the fundamental and most important questions directed at the very ontological essence of a human being are explained, including the question of right to life in the course of health care provision, in the post-modern society now also emphasised as right to death, i. e. right to the negative aspect immanent to life. Every human being assumes a natural entitlement to answer these questions, as certain death looms at the end of everyone's individual ontogenesis.

The thesis will therefore attempt to advance further in the sphere of life understood as a natural good. It outlines thoroughly and elaborates theoretically the contemporary and seriously problematic issue of life as a kind of damage, which touches upon the very morality of law. Although the hypothesis of life as damage is – on the immaterial level – a *contradictio in adiecto*, the submitted conclusions of the thesis will prove that the development of

argumentation shows a distinctive tendency to confirm this almost shocking hypothesis in some cases.

In the extent of particular personality goods affected in the area of health care provision the thesis does not omit the sphere of the specific right to health and the associated right to health care and free decision-making of a human being. The general personality right of a physical person may usually be limited only with his or her consent, by which the autonomy, self-determination and freedom of a human being is being respected. The subsequent exposition on the obligations of informed consent and its essential components will therefore not be omitted and, together with the discussion of euthanasia, will certify that the legal maxim "*volenti non fit iniuria*" neither is nor can be a universally applicable rule.

The text will dedicate space for the recent events, relevant to the concept of immaterial injury even in the European context. A case of intensive breach of personal integrity in the form of two newborn children being interchanged in a hospital lead to a tumultuous society-wide discussion in the Czech Republic and this thesis intends to seriously debate the problem. Evidence will be offered that the wide and monistic concept of general personality rights has its relevant place in the present private-law codification in the protection of personality against intensive breaches of personality rights in health care, all this without any necessary interference with life or health.

Significant space will further be conceded to the very concept of immaterial injury with the particular focus on injury to human health. The conclusions drawn in the dissertation thesis manifest a partial disorderliness of the Czech approach; on the other hand some principles of the dualistic concept will be appreciated. The closing part will submit an outline of personality rights and their certain aspects *de lege ferenda*. The relevant sections of the draft new Civil Code will be confronted critically and partial solutions will be proposed.