

# **DAMAGE TO HEALTH AS AN INTERVENTION IN THE PROTECTION OF PERSONAL RIGHTS UNDER S. 11 AND THE FOLLOWING OF THE CIVIL CODE**

The topic of this thesis is the health damage as regards the interference in the personality rights within the legal frame of the Czech Republic. The main focus is the granting of damages for the incurred harm since the extent of claims arising from the health damage and their regulation in the Civil Code had not been long interpreted unanimously in theory and practice. The thesis elaborates on the constitutional basis of the personality rights and rights to the health protection and their statutory regulations; consequently, it interprets the statutory regulations related to the health damage as the interference in personality rights in the context of constitutional basis, using the available judicature and literature.

Further, the thesis deals with the question of possible statutory limitation of the health damage claims for from the view of the fundamental rights and basic freedom, the extent of the satisfaction may be determined by the court only. This dispute has not been resolved in the theory so far, neither has it been decided in the judicial practice. Therefore, the thesis provides arguments which may be used when assessing the constitutionality of such limitation of damages awarded for health damage incurred.

Following the parliamentary approval of the new Civil Code (published as the Law No. 89/2012 Coll.), effective 1<sup>st</sup> January 2014, which will fully replace the existing statutory regulation, the thesis reflects also the modifications to the concept of personality rights and damages incurred from the inference therein, including the rights to the health protection. It deals with the relationship between the terms “damage” and “non-material harm” in the interpretation of the new Civil Code, and with the system of compensations for the non-material harm caused by health damage. The conceptual change of the damage claims is fairly essential since it abandons the existing limitation of the extent of damages awarded for health damage and henceforth leaves the determination of damages to the judicial discretion only.