

## **DAMAGES FOR INJURY - SUMMARY**

The purpose of my thesis is to analyse the present situation in the area of medical law and to find possible legal solutions which would contribute to its improvement.

Damages for injury is one of the fastest developing areas of medical law. The legislation of liability for damage to health is contained primarily in the civil code and in some other statutes, of which the most important is the statute on health care of the people. The essential preconditions for the emergence of the liability for damage to health, as well as in the case of other responsibility for the damage, is; the violation of legal obligation, fault, damage and causation between the breach and damage. Each components its specificities. Most of the issues concern causation. Causation can be difficult to demonstrate with certainty due to the unpredictability of biological processes in the body. Courts usually require a 100% proof of it. In cases of liability for damage to health caused by the applied instrument or operational activities is not necessary to prove the fault or breach of legal obligation, which facilitates the position of claimants who seek damages.

The basic legal obligation of the provider of health services is to follow the *lege artis* principle. This concept requires that the procedure be performed in according to the latest scientific and professional standards. However, this strict, but legitimate request will be limited, since the specific circumstances and objective possibilities will be taken into consideration in the future.

Claims for damage to health may contain pecuniary loss, such as loss of profit or the cost of treatment, as well as compensation for non-pecuniary loss, such as the disfigurement or pain. In particular, in the case of compensation for disfigurement, the Court has large discretion power when the point assessment stated by law has currently rather indicative function. The inclusion of non-material injury under the damage to health brings questions of concurrent claims for compensation for damage to health and adequate reparation for the interference for the right for the protection of personality, which complicates the decision-making activity of courts and causes its lack of clarity

We can expect the significant change in the legislation of damages for injury in near future, particularly the adoption of the new civil code and the statute on health care of the people. The civil code probably reflects the development of medical law and current requirements of the society. However, the statute on health care of the people is regressive. Thus, we can expect that the legislation of the liability for damage to health, as well as the field of medical law, will need further development and improvement, which will provide wider protection of rights of patients.