

Resumé

The topic of my thesis is the protection of personality and organ transplantation. This topic prepossessed me because I work at the Ministry of Health of the Czech Republic in the department of legislation where we prepare a lot of law acts including preparation the law of organ transplantation and other health legislation. I had ideal conditions for working on my thesis because we have lots of materials related to this topic at work and I am a member of the National medical library which provides many books and periodicals from the practice in provision of healthcare. The transplantation and protection of personality is very important because it regards everyone and it is necessary to realize that in our daily hectic life the human health is the highest merit which we must protect and take care about it. With the accelerating progress in technology it is necessary to protect patient and his rights and strengthen the knowledge and education in the field of healthcare.

This part of law is the component of the private law and the protection is provided by the public law too (offenses) and from many international documents and law acts which is the evidence of magnitude of this topic. The key idea of this thesis is protection of a physical person. This protection is complex and consists of partial rights (complex of individual component values). Fundamental protection is provided by the main law act at privat law – The Civil code (Act No. 40/1964 Coll. as amended) which is the most important law act in this sphere. All law acts provide protection of human personality ahead of all interventions which law prohibits. Especially in providing healthcare there are many actions which may be unwarranted interventions and it is necessary to modify these actions in the law acts. In particular the sphere of healthcare law is a sphere with very scattered legal regulation uncodified in a single code; the Nation Health Care Act (Act No. 20/1966 Coll. as amended) is considered as the key one.

Healthcare is a sphere where the interventions in the personality rights are most frequent. Healthcare service should be provided in the public interest at the level preventing direct interventions in the rights related to our personality. Such interventions include not only the interventions with consequences unimportant for factual life; on the contrary, the interventions in the healthcare sphere may influence our existence to such extent that we may hover between life and death. It is the sphere of medicine and medical law where we face the issues of moral and ethics, which however must not be given precedence over the law or to negate the law. This is unacceptable in a state that respects the rule of law.

In the second part of my thesis I paid attention especially to the component value of organ transplantation. An organ transplantation is the moving of an organ from one body to another, or from a donor site on the patient's own body, for the purpose of replacing the recipient's damaged or absent organ. The emerging field of Regenerative medicine may soon allow organs to be re-grown from the patient's own cells (stem cells, or cells extracted from the failing organs). Organs that can be transplanted are the heart, kidneys, liver, lungs, pancreas, intestine, and skin. Tissues include bones, tendons, cornea, heart valves, veins. Worldwide, the kidneys are the most commonly transplanted organs. Transplantation medicine is one of the most challenging and complex areas of modern medicine. In most countries there is a shortage of suitable organs for transplantation. Countries often have formal systems in place to manage the process of determining who is an organ donor and in what order organ recipients receive available organs. Transplantation also raises a number of bioethical issues, including the definition of death, when and how consent should be given for an organ to be transplanted and payment for organs for transplantation. The history began in 1905 when the first successful cornea transplantation by Eduard Zirm was accomplished and today the transplant medicine in the Czech Republic is up to high standard.

Then I describe the new Civil code which is being prepared and is waiting in Parliament for approval. It is a very large conception which includes all sections of civil law (not only some of them like today Civil code – for example the section of family law is being adapted separately). This law act refunds the old law act from 1964. But the new Civil code has many antagonists because it is too long and too complicated and uses a very archaic terminology (the inspiration comes from Austrian Civil code from 1811).

In the end of my thesis I mentioned discussion about organ transplantation and its impacts as well as the proposal for a Directive of the European Parliament and of the Council on quality and safety standards of human organs intended for transplantation.

Klíčová slova:

ochrana osobnosti, tělesná integrita, transplantace orgánů

Keywords:

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