

Abstract

This diploma thesis deals with the issue of organ and tissue transplantations in the Czech Republic and contains a comparison with other systems of law and practices. The first part of the thesis is focused on the history of performing transplantation and sources of law. The second part provides an explanation of Czech transplantation act. For better clarity, the chapters are organized in accordance with the act. The comparison with other countries is included in particular chapters so it is possible to demonstrate other possible ways of regulation. Apart from the elaboration of the transplantation act the thesis elucidates the ethical questions and upraise of legal liability in concern with performing transplantations.

The fundamental part of the thesis deals with the detail analysis of the transplantation act and other legal regulations connected with performing transplantations. In particular, the chapters step by step explain conditions for organ or tissue removal from living or deceased donors, organ implementation into the body of the recipient and all other related actions. In chapter no. 3.4 two different systems of consent with post mortem organ donations are distinguished. The chapter introduces advantages and disadvantages of both systems – the system of presumed consent (*opt out*) and the explicit consent (*opt in*). Further, the thesis describes the situation in the Czech Republic where the system of presumed consent is established. The last part of thesis deals with the issue of legal liability that could arise during performing transplantation and successively describes cases of civil, administrative and criminal liability of physicians and health care institutions. The criminal liability of health care institutions that have the status of legal entities according to new Czech act binding from the beginning of this year is mentioned.

The thesis is based on the legal regulation with the effective date of 31th of July 2012 but it also works with the amendment to the transplantation act which is to replace several insufficiencies of the currently effective regulation. The inability of organ or tissue removal from foreign nationals and the lack of the financial compensation to donors for expenses related to the donation belong to the most striking failings of the current act. Other defects related to the issue of organ and tissue transplantation are the lack of public awareness about this topic and a relatively low participation of the Czech Republic within the international cooperation for the purpose of exchange of organs and tissues.